

109TH CONGRESS  
2D SESSION

# H. R. 3505

## AN ACT

To provide regulatory relief and improve productivity for insured depository institutions, and for other purposes.



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To provide regulatory relief and improve productivity for insured depository institutions, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2   *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Financial Services Regulatory Relief Act of 2005”.

4 (b) TABLE OF CONTENTS.—The table of contents for  
5 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—NATIONAL BANK PROVISIONS**

Sec. 101. National bank directors.

Sec. 102. Voting in shareholder elections.

Sec. 103. Simplifying dividend calculations for national banks.

Sec. 104. Repeal of obsolete limitation on removal authority of the Comptroller  
of the Currency.

Sec. 105. Repeal of intrastate branch capital requirements.

Sec. 106. Clarification of waiver of publication requirements for bank merger  
notices.

Sec. 107. Equal treatment for Federal agencies of foreign banks.

Sec. 108. Maintenance of a Federal branch and a Federal agency in the same  
State.

Sec. 109. Business organization flexibility for national banks.

Sec. 110. Clarification of the main place of business of a national bank.

Sec. 111. Capital equivalency deposits for Federal branches and agencies of for-  
eign banks.

Sec. 112. Enhancing the authority for national banks to make community de-  
velopment investments.

**TITLE II—SAVINGS ASSOCIATION PROVISIONS**

Sec. 201. Parity for savings associations under the Securities Exchange Act of  
1934 and the Investment Advisers Act of 1940.

Sec. 202. Investments by Federal savings associations authorized to promote  
the public welfare.

Sec. 203. Mergers and consolidations of Federal savings associations with non-  
depository institution affiliates.

Sec. 204. Repeal of statutory dividend notice requirement for savings associa-  
tion subsidiaries of savings and loan holding companies.

Sec. 205. Modernizing statutory authority for trust ownership of savings asso-  
ciations.

Sec. 206. Repeal of overlapping rules governing purchased mortgage servicing  
rights.

Sec. 207. Restatement of authority for Federal savings associations to invest in  
small business investment companies.

Sec. 208. Removal of limitation on investments in auto loans.

Sec. 209. Selling and offering of deposit products.

Sec. 210. Funeral- and cemetery-related fiduciary services.

Sec. 211. Repeal of qualified thrift lender requirement with respect to out-of-  
state branches.

Sec. 212. Small business and other commercial loans.

- Sec. 213. Clarifying citizenship of Federal savings associations for Federal court jurisdiction.
- Sec. 214. Increase in limits on commercial real estate loans.
- Sec. 215. Repeal of one limit on loans to one borrower.
- Sec. 216. Savings association credit card banks.
- Sec. 217. Interstate acquisitions by S&L holding companies.
- Sec. 218. Business organization flexibility for federal savings associations.

### TITLE III—CREDIT UNION PROVISIONS

- Sec. 301. Privately insured credit unions authorized to become members of a Federal home loan bank.
- Sec. 302. Leases of land on Federal facilities for credit unions.
- Sec. 303. Investments in securities by Federal credit unions.
- Sec. 304. Increase in general 12-year limitation of term of Federal credit union loans to 15 years.
- Sec. 305. Increase in 1 percent investment limit in credit union service organizations.
- Sec. 306. Member business loan exclusion for loans to nonprofit religious organizations.
- Sec. 307. Check cashing and money transfer services offered within the field of membership.
- Sec. 308. Voluntary mergers involving multiple common-bond credit unions.
- Sec. 309. Conversions involving common-bond credit unions.
- Sec. 310. Credit union governance.
- Sec. 311. Providing the National Credit Union Administration with greater flexibility in responding to market conditions.
- Sec. 312. Exemption from pre-merger notification requirement of the Clayton Act.
- Sec. 313. Treatment of credit unions as depository institutions under securities laws.
- Sec. 314. Clarification of definition of net worth under certain circumstances for purposes of prompt corrective action.
- Sec. 315. Amendments relating to nonfederally insured credit unions.

### TITLE IV—DEPOSITORY INSTITUTION PROVISIONS

- Sec. 401. Easing restrictions on interstate branching and mergers.
- Sec. 402. Statute of limitations for judicial review of appointment of a receiver for depository institutions.
- Sec. 403. Reporting requirements relating to insider lending.
- Sec. 404. Amendment to provide an inflation adjustment for the small depository institution exception under the Depository Institution Management Interlocks Act.
- Sec. 405. Enhancing the safety and soundness of insured depository institutions.
- Sec. 406. Investments by insured savings associations in bank service companies authorized.
- Sec. 407. Cross guarantee authority.
- Sec. 408. Golden parachute authority and nonbank holding companies.
- Sec. 409. Amendments relating to change in bank control.
- Sec. 410. Community reinvestment credit for esops and ewocs.
- Sec. 411. Minority financial institutions.

### TITLE V—DEPOSITORY INSTITUTION AFFILIATES PROVISIONS

- Sec. 501. Clarification of cross marketing provision.
- Sec. 502. Amendment to provide the Federal Reserve Board with discretion concerning the imputation of control of shares of a company by trustees.
- Sec. 503. Eliminating geographic limits on thrift service companies.
- Sec. 504. Clarification of scope of applicable rate provision.
- Sec. 505. Savings associations acting as agents for affiliated depository institutions.
- Sec. 506. Credit card bank investments for the public welfare.

#### TITLE VI—BANKING AGENCY PROVISIONS

- Sec. 601. Waiver of examination schedule in order to allocate examiner resources.
- Sec. 602. Interagency data sharing.
- Sec. 603. Penalty for unauthorized participation by convicted individual.
- Sec. 604. Amendment permitting the destruction of old records of a depository institution by the FDIC after the appointment of the FDIC as receiver.
- Sec. 605. Modernization of recordkeeping requirement.
- Sec. 606. Streamlining reports of condition.
- Sec. 607. Expansion of eligibility for 18-month examination schedule for community banks.
- Sec. 608. Short form reports of condition for certain community banks.
- Sec. 609. Clarification of extent of suspension, removal, and prohibition authority of Federal banking agencies in cases of certain crimes by institution-affiliated parties.
- Sec. 610. Streamlining depository institution merger application requirements.
- Sec. 611. Inclusion of Director of the Office of Thrift Supervision in list of banking agencies regarding insurance customer protection regulations.
- Sec. 612. Protection of confidential information received by Federal banking regulators from foreign banking supervisors.
- Sec. 613. Prohibition on participation by convicted individual.
- Sec. 614. Clarification that notice after separation from service may be made by an order.
- Sec. 615. Enforcement against misrepresentations regarding FDIC deposit insurance coverage.
- Sec. 616. Changes required to small bank holding company policy statement on assessment of financial and managerial factors.
- Sec. 617. Exception to annual privacy notice requirement under the Gramm-Leach-Bliley Act.
- Sec. 618. Biennial reports on the status of agency employment of minorities and women.
- Sec. 619. Coordination of State examination authority.
- Sec. 620. Nonwaiver of privileges.
- Sec. 621. Right to Financial Privacy Act of 1978 amendment.
- Sec. 622. Deputy director; succession authority for Director of the Office of Thrift Supervision.
- Sec. 623. Limitation on scope of new agency guidelines.

#### TITLE VII—“BSA” COMPLIANCE BURDEN REDUCTION

- Sec. 701. Exception from currency transaction reports for seasoned customers.
- Sec. 702. Reduction in inconsistencies in monetary transaction recordkeeping and reporting enforcement and examination requirements.

- Sec. 703. Additional reforms relating to monetary transaction and record-keeping requirements applicable to financial institutions.
- Sec. 704. Study by Comptroller General.
- Sec. 705. Feasibility study required.
- Sec. 706. Annual report by Secretary of the Treasury.
- Sec. 707. Preservation of money services businesses.

#### TITLE VIII—CLERICAL AND TECHNICAL AMENDMENTS

- Sec. 801. Clerical amendments to the Home Owners' Loan Act.
- Sec. 802. Technical corrections to the Federal Credit Union Act.
- Sec. 803. Other technical corrections.
- Sec. 804. Repeal of obsolete provisions of the Bank Holding Company Act of 1956.

#### TITLE IX—FAIR DEBT COLLECTION PRACTICES ACT AMENDMENTS

- Sec. 901. Exception for certain bad check enforcement programs.
- Sec. 902. Other amendments.

## 1           **TITLE I—NATIONAL BANK** 2                                   **PROVISIONS**

### 3   **SEC. 101. NATIONAL BANK DIRECTORS.**

4           (a) IN GENERAL.—Section 5146 of the Revised Stat-  
5   utes of the United States (12 U.S.C. 72) is amended—

6                   (1) by striking “SEC. 5146. Every director  
7           must during” and inserting the following:

#### 8   **“SEC. 5146. REQUIREMENTS FOR BANK DIRECTORS.**

9           “(a) RESIDENCY REQUIREMENTS.—Every director of  
10   a national bank shall, during”;

11                   (2) by striking “total number of directors.  
12   Every director must own in his or her own right”  
13   and inserting “total number of directors.

14           “(b) INVESTMENT REQUIREMENT.—

15                   “(1) IN GENERAL.—Every director of a na-  
16   tional bank shall own, in his or her own right,”; and

1           (3) by adding at the end the following new  
2 paragraph:

3           “(2) EXCEPTION FOR SUBORDINATED DEBT IN  
4 CERTAIN CASES.—In lieu of the requirements of  
5 paragraph (1) relating to the ownership of capital  
6 stock in the national bank, the Comptroller of the  
7 Currency may, by regulation or order, permit an in-  
8 dividual to serve as a director of a national bank  
9 that has elected, or notifies the Comptroller of the  
10 bank’s intention to elect, to operate as a S corpora-  
11 tion pursuant to section 1362(a) of the Internal  
12 Revenue Code of 1986, if that individual holds debt  
13 of at least \$1,000 issued by the national bank that  
14 is subordinated to the interests of depositors and  
15 other general creditors of the national bank.”.

16       (b) CLERICAL AMENDMENT.—The table of sections  
17 for chapter one of title LXII of the Revised Statutes of  
18 the United States (12 U.S.C. 21 et seq.) is amended by  
19 striking the item relating to section 5146 and inserting  
20 the following new item:

“5146. Requirements for bank directors.”.

21 **SEC. 102. VOTING IN SHAREHOLDER ELECTIONS.**

22       Section 5144 of the Revised Statutes of the United  
23 States (12 U.S.C. 61) is amended—



1           (1) by striking “or to cumulate” and inserting  
 2           “or, if so provided by the articles of association of  
 3           the national bank, to cumulate”;

4           (2) by striking the comma after “his shares  
 5           shall equal”; and

6           (3) by adding at the end the following new sen-  
 7           tence: “The Comptroller of the Currency may pre-  
 8           scribe such regulations to carry out the purposes of  
 9           this section as the Comptroller determines to be ap-  
 10          propriate.”.

11 **SEC. 103. SIMPLIFYING DIVIDEND CALCULATIONS FOR NA-**  
 12 **TIONAL BANKS.**

13          (a) IN GENERAL.—Section 5199 of the Revised Stat-  
 14          utes of the United States (12 U.S.C. 60) is amended to  
 15          read as follows:

16 **“SEC. 5199. NATIONAL BANK DIVIDENDS.**

17          “(a) IN GENERAL.—Subject to subsection (b), the di-  
 18          rectors of any national bank may declare a dividend of  
 19          so much of the undivided profits of the bank as the direc-  
 20          tors judge to be expedient.

21          “(b) APPROVAL REQUIRED UNDER CERTAIN CIR-  
 22          CUMSTANCES.—A national bank may not declare and pay  
 23          dividends in any year in excess of an amount equal to the  
 24          sum of the total of the net income of the bank for that  
 25          year and the retained net income of the bank in the pre-

1 ceding two years, minus any transfers required by the  
 2 Comptroller of the Currency (including any transfers re-  
 3 quired to be made to a fund for the retirement of any  
 4 preferred stock), unless the Comptroller of the Currency  
 5 approves the declaration and payment of dividends in ex-  
 6 cess of such amount.”.

7 (b) CLERICAL AMENDMENT.—The table of sections  
 8 for chapter three of title LXII of the Revised Statutes of  
 9 the United States is amended by striking the item relating  
 10 to section 5199 and inserting the following new item:

“5199. National bank dividends.”.

11 **SEC. 104. REPEAL OF OBSOLETE LIMITATION ON REMOVAL**  
 12 **AUTHORITY OF THE COMPTROLLER OF THE**  
 13 **CURRENCY.**

14 Section 8(e)(4) of the Federal Deposit Insurance Act  
 15 (12 U.S.C. 1818(e)(4)) is amended by striking the 5th  
 16 sentence.

17 **SEC. 105. REPEAL OF INTRASTATE BRANCH CAPITAL RE-**  
 18 **QUIREMENTS.**

19 Section 5155(c) of the Revised Statutes of the United  
 20 States (12 U.S.C. 36(c)) is amended—

21 (1) in the 2nd sentence, by striking “, without  
 22 regard to the capital requirements of this section,”;  
 23 and

24 (2) by striking the last sentence.

1 **SEC. 106. CLARIFICATION OF WAIVER OF PUBLICATION RE-**  
2 **QUIREMENTS FOR BANK MERGER NOTICES.**

3 The last sentence of sections 2(a) and 3(a)(2) of the  
4 National Bank Consolidation and Merger Act (12 U.S.C.  
5 215(a) and 215a(a)(2), respectively) are each amended by  
6 striking “Publication of notice may be waived, in cases  
7 where the Comptroller determines that an emergency ex-  
8 ists justifying such waiver, by unanimous action of the  
9 shareholders of the association or State bank” and insert-  
10 ing “Publication of notice may be waived if the Comp-  
11 troller determines that an emergency exists justifying such  
12 waiver or if the shareholders of the association or State  
13 bank agree by unanimous action to waive the publication  
14 requirement for their respective institutions”.

15 **SEC. 107. EQUAL TREATMENT FOR FEDERAL AGENCIES OF**  
16 **FOREIGN BANKS.**

17 The 1st sentence of section 4(d) of the International  
18 Banking Act of 1978 (12 U.S.C. 3102(d)) is amended by  
19 inserting “from citizens or residents of the United States”  
20 after “deposits”.

21 **SEC. 108. MAINTENANCE OF A FEDERAL BRANCH AND A**  
22 **FEDERAL AGENCY IN THE SAME STATE.**

23 Section 4(e) of the International Banking Act of  
24 1978 (12 U.S.C. 3102(e)) is amended by inserting “if the  
25 maintenance of both an agency and a branch in the State

1 is prohibited under the law of such State” before the pe-  
 2 riod at the end.

3 **SEC. 109. BUSINESS ORGANIZATION FLEXIBILITY FOR NA-**  
 4 **TIONAL BANKS.**

5 (a) IN GENERAL.—Chapter one of title LXII of the  
 6 Revised Statutes of the United States (12 U.S.C. 21 et  
 7 seq.) is amended by inserting after section 5136B the fol-  
 8 lowing new section:

9 **“SEC. 5136C. ALTERNATIVE BUSINESS ORGANIZATION.**

10 “(a) IN GENERAL.—The Comptroller of the Currency  
 11 may prescribe regulations—

12 “(1) to permit a national bank to be organized  
 13 other than as a body corporate; and

14 “(2) to provide requirements for the organiza-  
 15 tional characteristics of a national bank organized  
 16 and operating other than as a body corporate, con-  
 17 sistent with the safety and soundness of the national  
 18 bank.

19 “(b) EQUAL TREATMENT.—Except as provided in  
 20 regulations prescribed under subsection (a), a national  
 21 bank that is operating other than as a body corporate shall  
 22 have the same rights and privileges and shall be subject  
 23 to the same duties, restrictions, penalties, liabilities, condi-  
 24 tions, and limitations as a national bank that is organized  
 25 as a body corporate.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
 2 Section 5136 of the Revised Statutes of the United States  
 3 (12 U.S.C. 24) is amended, in the matter preceding the  
 4 paragraph designated as the “First”, by inserting “or  
 5 other form of business organization provided under regula-  
 6 tions prescribed by the Comptroller of the Currency under  
 7 section 5136C” after “a body corporate”.

8 (c) CLERICAL AMENDMENT.—The table of sections  
 9 for chapter one of title LXII of the Revised Statutes of  
 10 the United States (12 U.S.C. 21 et seq.) is amended by  
 11 inserting after the item relating to section 5136B the fol-  
 12 lowing new item:

“5136C. Alternative business organization.”.

13 **SEC. 110. CLARIFICATION OF THE MAIN PLACE OF BUSI-**  
 14 **NESS OF A NATIONAL BANK.**

15 Title LXII of the Revised Statutes of the United  
 16 States is amended—

17 (1) in the paragraph designated the “Second”  
 18 of section 5134 (12 U.S.C. 22), by striking “The  
 19 place where its operations of discount and deposit  
 20 are to be carried on” and inserting “The place  
 21 where the main office of the national bank is, or is  
 22 to be, located”; and

23 (2) in section 5190 (12 U.S.C. 81), by striking  
 24 “the place specified in its organization certificate”  
 25 and inserting “the main office of the national bank”.

1 **SEC. 111. CAPITAL EQUIVALENCY DEPOSITS FOR FEDERAL**  
2 **BRANCHES AND AGENCIES OF FOREIGN**  
3 **BANKS.**

4 Section 4(g) of the International Banking Act of  
5 1978 (12 U.S.C. 3102(g)) is amended to read as follows:

6 “(g) CAPITAL EQUIVALENCY DEPOSIT.—

7 “(1) IN GENERAL.—Upon the opening of a  
8 Federal branch or agency of a foreign bank in any  
9 State and thereafter, the foreign bank, in addition to  
10 any deposit requirements imposed under section 6,  
11 shall keep on deposit, in accordance with such regu-  
12 lations as the Comptroller of the Currency may pre-  
13 scribe in accordance with paragraph (2), dollar de-  
14 posits, investment securities, or other assets in such  
15 amounts as the Comptroller of the Currency deter-  
16 mines to be necessary for the protection of deposi-  
17 tors and other investors and to be consistent with  
18 the principles of safety and soundness.

19 “(2) LIMITATION.—Notwithstanding paragraph  
20 (1), regulations prescribed under such paragraph  
21 shall not permit a foreign bank to keep assets on de-  
22 posit in an amount that is less than the amount re-  
23 quired for a State licensed branch or agency of a  
24 foreign bank under the laws and regulations of the  
25 State in which the Federal agency or branch is lo-  
26 cated.”.

1 **SEC. 112. ENHANCING THE AUTHORITY FOR NATIONAL**  
 2 **BANKS TO MAKE COMMUNITY DEVELOPMENT**  
 3 **INVESTMENTS.**

4 The last sentence in the paragraph designated as the  
 5 “Eleventh.” of section 5136 of the Revised Statutes of the  
 6 United States (12 U.S.C. 24) is amended by striking “10  
 7 percent” each place such term appears and inserting “15  
 8 percent”.

9 **TITLE II—SAVINGS ASSOCIATION**  
 10 **PROVISIONS**

11 **SEC. 201. PARITY FOR SAVINGS ASSOCIATIONS UNDER THE**  
 12 **SECURITIES EXCHANGE ACT OF 1934 AND**  
 13 **THE INVESTMENT ADVISERS ACT OF 1940.**

14 (a) SECURITIES EXCHANGE ACT OF 1934.—

15 (1) DEFINITION OF BANK.—Section 3(a)(6) of  
 16 the Securities Exchange Act of 1934 (15 U.S.C.  
 17 78c(a)(6)) is amended—

18 (A) in subparagraph (A), by inserting “or  
 19 a Federal savings association, as defined in sec-  
 20 tion 2(5) of the Home Owners’ Loan Act” after  
 21 “a banking institution organized under the laws  
 22 of the United States”; and

23 (B) in subparagraph (C)—

24 (i) by inserting “or savings associa-  
 25 tion as defined in section 2(4) of the Home

1 Owners' Loan Act," after "banking insti-  
2 tution,"; and

3 (ii) by inserting "or savings associa-  
4 tions" after "having supervision over  
5 banks".

6 (2) INCLUDE OTS UNDER THE DEFINITION OF  
7 APPROPRIATE REGULATORY AGENCY FOR CERTAIN  
8 PURPOSES.—Section 3(a)(34) of such Act (15  
9 U.S.C. 78c(a)(34)) is amended—

10 (A) in subparagraph (A)—

11 (i) in clause (ii), by striking "(i) or  
12 (iii)" and inserting "(i), (iii), or (iv)";

13 (ii) by striking "and" at the end of  
14 clause (iii);

15 (iii) by redesignating clause (iv) as  
16 clause (v); and

17 (iv) by inserting the following new  
18 clause after clause (iii):

19 "(iv) the Director of the Office of  
20 Thrift Supervision, in the case of a savings  
21 association (as defined in section 3(b) of  
22 the Federal Deposit Insurance Act (12  
23 U.S.C. 1813(b))) the deposits of which are  
24 insured by the Federal Deposit Insurance  
25 Corporation, a subsidiary or a department



1 or division of any such savings association,  
2 or a savings and loan holding company;  
3 and”;

4 (B) in subparagraph (B)—

5 (i) in clause (ii), by striking “(i) or  
6 (iii)” and inserting “(i), (iii), or (iv)”;

7 (ii) by striking “and” at the end of  
8 clause (iii);

9 (iii) by redesignating clause (iv) as  
10 clause (v); and

11 (iv) by inserting the following new  
12 clause after clause (iii):

13 “(iv) the Director of the Office of  
14 Thrift Supervision, in the case of a savings  
15 association (as defined in section 3(b) of  
16 the Federal Deposit Insurance Act (12  
17 U.S.C. 1813(b))) the deposits of which are  
18 insured by the Federal Deposit Insurance  
19 Corporation, or a subsidiary of any such  
20 savings association, or a savings and loan  
21 holding company; and”;

22 (C) in subparagraph (C)—

23 (i) in clause (ii), by striking “(i) or  
24 (iii)” and inserting “(i), (iii), or (iv)”;

1 (ii) by striking “and” at the end of  
2 clause (iii);

3 (iii) by redesignating clause (iv) as  
4 clause (v); and

5 (iv) by inserting the following new  
6 clause after clause (iii):

7 “(iv) the Director of the Office of  
8 Thrift Supervision, in the case of a savings  
9 association (as defined in section 3(b) of  
10 the Federal Deposit Insurance Act (12  
11 U.S.C. 1813(b))) the deposits of which are  
12 insured by the Federal Deposit Insurance  
13 Corporation, a savings and loan holding  
14 company, or a subsidiary of a savings and  
15 loan holding company when the appro-  
16 priate regulatory agency for such clearing  
17 agency is not the Commission; and”;

18 (D) in subparagraph (D)—

19 (i) by striking “and” at the end of  
20 clause (ii);

21 (ii) by redesignating clause (iii) as  
22 clause (iv); and

23 (iii) by inserting the following new  
24 clause after clause (ii):

1 “(iii) the Director of the Office of  
2 Thrift Supervision, in the case of a savings  
3 association (as defined in section 3(b) of  
4 the Federal Deposit Insurance Act (12  
5 U.S.C. 1813(b))) the deposits of which are  
6 insured by the Federal Deposit Insurance  
7 Corporation; and”;

8 (E) in subparagraph (F)—

9 (i) by redesignating clauses (ii), (iii),  
10 and (iv) as clauses (iii), (iv), and (v), re-  
11 spectively; and

12 (ii) by inserting the following new  
13 clause after clause (i):

14 “(ii) the Director of the Office of  
15 Thrift Supervision, in the case of a savings  
16 association (as defined in section 3(b) of  
17 the Federal Deposit Insurance Act (12  
18 U.S.C. 1813(b))) the deposits of which are  
19 insured by the Federal Deposit Insurance  
20 Corporation; and”;

21 (F) by moving subparagraph (H) and in-  
22 serting such subparagraph after subparagraph  
23 (G); and

24 (G) by adding at the end the following new  
25 sentence: “As used in this paragraph, the term

1           ‘savings and loan holding company’ has the  
 2           meaning given it in section 10(a) of the Home  
 3           Owners’ Loan Act (12 U.S.C. 1467a(a)).”.

4           (b) INVESTMENT ADVISERS ACT OF 1940.—

5           (1) DEFINITION OF BANK.—Section 202(a)(2)  
 6           of the Investment Advisers Act of 1940 (15 U.S.C.  
 7           80b–2(a)(2)) is amended—

8                   (A) in subparagraph (A) by inserting “or  
 9                   a Federal savings association, as defined in sec-  
 10                  tion 2(5) of the Home Owners’ Loan Act” after  
 11                  “a banking institution organized under the laws  
 12                  of the United States”; and

13                  (B) in subparagraph (C)—

14                           (i) by inserting “, savings association  
 15                           as defined in section 2(4) of the Home  
 16                           Owners’ Loan Act,” after “banking insti-  
 17                           tution”; and

18                           (ii) by inserting “or savings associa-  
 19                           tions” after “having supervision over  
 20                           banks”.

21           (2) CONFORMING AMENDMENTS.—Subsections  
 22           (a)(1)(A)(i), (a)(1)(B), (a)(2), and (b) of section  
 23           210A of such Act (15 U.S.C. 80b–10a), as added by  
 24           section 220 of the Gramm-Leach-Bliley Act, are  
 25           each amended by striking “bank holding company”

1       each place it occurs and inserting “bank holding  
2       company or savings and loan holding company”.

3       (c) CONFORMING AMENDMENT TO THE INVESTMENT  
4 COMPANY ACT OF 1940.—Section 10(c) of the Investment  
5 Company Act of 1940 (15 U.S.C. 80a–10(c)), as amended  
6 by section 213(c) of the Gramm-Leach-Bliley Act, is  
7 amended by inserting after “1956)” the following: “or any  
8 one savings and loan holding company (together with its  
9 affiliates and subsidiaries) (as such terms are defined in  
10 section 10 of the Home Owners’ Loan Act)”.

11 **SEC. 202. INVESTMENTS BY FEDERAL SAVINGS ASSOCIA-**  
12 **TIONS AUTHORIZED TO PROMOTE THE PUB-**  
13 **LIC WELFARE.**

14       (a) IN GENERAL.—Section 5(c)(3) of the Home Own-  
15 ers’ Loan Act (12 U.S.C. 1464(c)) is amended by adding  
16 at the end the following new subparagraph:

17               “(D) DIRECT INVESTMENTS TO PROMOTE  
18 THE PUBLIC WELFARE.—

19               “(i) IN GENERAL.—A Federal savings  
20 association may make investments de-  
21 signed primarily to promote the public wel-  
22 fare, including the welfare of low- and  
23 moderate-income communities or families  
24 through the provision of housing, services,  
25 and jobs.

1 “(ii) DIRECT INVESTMENTS OR ACQUI-  
2 SITION OF INTEREST IN OTHER COMPA-  
3 NIES.—Investments under clause (i) may  
4 be made directly or by purchasing interests  
5 in an entity primarily engaged in making  
6 such investments.

7 “(iii) PROHIBITION ON UNLIMITED LI-  
8 ABILITY.—No investment may be made  
9 under this subparagraph which would sub-  
10 ject a Federal savings association to unlim-  
11 ited liability to any person.

12 “(iv) SINGLE INVESTMENT LIMITA-  
13 TION TO BE ESTABLISHED BY DIREC-  
14 TOR.—Subject to clauses (v) and (vi), the  
15 Director shall establish, by order or regula-  
16 tion, limits on—

17 “(I) the amount any savings as-  
18 sociation may invest in any 1 project;  
19 and

20 “(II) the aggregate amount of in-  
21 vestment of any savings association  
22 under this subparagraph.

23 “(v) FLEXIBLE AGGREGATE INVEST-  
24 MENT LIMITATION.—The aggregate  
25 amount of investments of any savings asso-

1 ciation under this subparagraph may not  
2 exceed an amount equal to the sum of 5  
3 percent of the savings association's capital  
4 stock actually paid in and unimpaired and  
5 5 percent of the savings association's  
6 unimpaired surplus, unless—

7 “(I) the Director determines that  
8 the savings association is adequately  
9 capitalized; and

10 “(II) the Director determines, by  
11 order, that the aggregate amount of  
12 investments in a higher amount than  
13 the limit under this clause will pose  
14 no significant risk to the affected de-  
15 posit insurance fund.

16 “(vi) MAXIMUM AGGREGATE INVEST-  
17 MENT LIMITATION.—Notwithstanding  
18 clause (v), the aggregate amount of invest-  
19 ments of any savings association under  
20 this subparagraph may not exceed an  
21 amount equal to the sum of 15 percent of  
22 the savings association's capital stock actu-  
23 ally paid in and unimpaired and 15 per-  
24 cent of the savings association's  
25 unimpaired surplus.

1                   “(vii) INVESTMENTS NOT SUBJECT TO  
 2                   OTHER LIMITATION ON QUALITY OF IN-  
 3                   VESTMENTS.—No obligation a Federal sav-  
 4                   ings association acquires or retains under  
 5                   this subparagraph shall be taken into ac-  
 6                   count for purposes of the limitation con-  
 7                   tained in section 28(d) of the Federal De-  
 8                   posit Insurance Act on the acquisition and  
 9                   retention of any corporate debt security  
 10                  not of investment grade.”.

11           (b) TECHNICAL AND CONFORMING AMENDMENT.—  
 12   Section 5(c)(3)(A) of the Home Owners’ Loan Act (12  
 13   U.S.C. 1464(c)(3)(A)) is amended to read as follows:

14                   “(A) [Repealed].”.

15   **SEC. 203. MERGERS AND CONSOLIDATIONS OF FEDERAL**  
 16                   **SAVINGS ASSOCIATIONS WITH NONDEPOSI-**  
 17                   **TORY INSTITUTION AFFILIATES.**

18           Section 5(d)(3) of the Home Owners’ Loan Act (12  
 19   U.S.C. 1464(d)(3)) is amended—

20                   (1) by redesignating subparagraph (B) as sub-  
 21                   paragraph (C); and

22                   (2) by inserting after subparagraph (A) the fol-  
 23                   lowing new subparagraph:



1           “(B) MERGERS AND CONSOLIDATIONS  
2           WITH NONDEPOSITORY INSTITUTION AFFILI-  
3           ATES.—

4           “(i) IN GENERAL.—Upon the approval  
5           of the Director, a Federal savings associa-  
6           tion may merge with any nondepository in-  
7           stitution affiliate of the savings associa-  
8           tion.

9           “(ii) RULE OF CONSTRUCTION.—No  
10          provision of clause (i) shall be construed  
11          as—

12           “(I) affecting the applicability of  
13           section 18(c) of the Federal Deposit  
14           Insurance Act; or

15           “(II) granting a Federal savings  
16           association any power or any author-  
17           ity to engage in any activity that is  
18           not authorized for a Federal savings  
19           association under any other provision  
20           of this Act or any other provision of  
21           law.”.

1 **SEC. 204. REPEAL OF STATUTORY DIVIDEND NOTICE RE-**  
 2 **QUIREMENT FOR SAVINGS ASSOCIATION SUB-**  
 3 **SIDIARIES OF SAVINGS AND LOAN HOLDING**  
 4 **COMPANIES.**

5 Section 10(f) of the Home Owners' Loan Act (12  
 6 U.S.C. 1467a(f)) is amended to read as follows:

7 “(f) DECLARATION OF DIVIDEND.—The Director  
 8 may—

9 “(1) require a savings association that is a sub-  
 10 sidiary of a savings and loan holding company to  
 11 give prior notice to the Director of the intent of the  
 12 savings association to pay a dividend on its guar-  
 13 anty, permanent, or other nonwithdrawable stock;  
 14 and

15 “(2) establish conditions on the payment of  
 16 dividends by such a savings association.”.

17 **SEC. 205. MODERNIZING STATUTORY AUTHORITY FOR**  
 18 **TRUST OWNERSHIP OF SAVINGS ASSOCIA-**  
 19 **TIONS.**

20 (a) IN GENERAL.—Section 10(a)(1)(C) of the Home  
 21 Owners' Loan Act (12 U.S.C. 1467a(a)(1)(C)) is amend-  
 22 ed—

23 (1) by striking “trust,” and inserting “business  
 24 trust,”; and

25 (2) by inserting “or any other trust unless by  
 26 its terms it must terminate within 25 years or not

1 later than 21 years and 10 months after the death  
2 of individuals living on the effective date of the  
3 trust,” after “or similar organization,”.

4 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
5 Section 10(a)(3) of the Home Owners’ Loan Act (12  
6 U.S.C. 1467a(a)(3)) is amended—

7 (1) by striking “does not include—” and all  
8 that follows through “any company by virtue” where  
9 such term appears in subparagraph (A) and insert-  
10 ing “does not include any company by virtue”;

11 (2) by striking “; and” at the end of subpara-  
12 graph (A) and inserting a period; and

13 (3) by striking subparagraph (B).

14 **SEC. 206. REPEAL OF OVERLAPPING RULES GOVERNING**  
15 **PURCHASED MORTGAGE SERVICING RIGHTS.**

16 Section 5(t) of the Home Owners’ Loan Act (12  
17 U.S.C. 1464(t)) is amended—

18 (1) by striking paragraph (4) and inserting the  
19 following new paragraph:

20 “(4) [Repealed].”; and

21 (2) in paragraph (9)(A), by striking “intangible  
22 assets, plus” and all that follows through the period  
23 at the end and inserting “intangible assets.”.

1 **SEC. 207. RESTATEMENT OF AUTHORITY FOR FEDERAL**  
2 **SAVINGS ASSOCIATIONS TO INVEST IN SMALL**  
3 **BUSINESS INVESTMENT COMPANIES.**

4 Subparagraph (D) of section 5(c)(4) of the Home  
5 Owners' Loan Act (12 U.S.C. 1464(c)(4)) is amended to  
6 read as follows:

7 “(D) SMALL BUSINESS INVESTMENT COM-  
8 PANIES.—Any Federal savings association may  
9 invest in 1 or more small business investment  
10 companies, or in any entity established to invest  
11 solely in small business investment companies  
12 formed under the Small Business Investment  
13 Act of 1958, except that the total amount of in-  
14 vestments under this subparagraph may not at  
15 any time exceed the amount equal to 5 percent  
16 of capital and surplus of the savings associa-  
17 tion.”.

18 **SEC. 208. REMOVAL OF LIMITATION ON INVESTMENTS IN**  
19 **AUTO LOANS.**

20 (a) IN GENERAL.—Section 5(c)(1) of the Home Own-  
21 ers' Loan Act (12 U.S.C. 1464(c)(1)) is amended by add-  
22 ing at the end the following new subparagraph:

23 “(V) AUTO LOANS.—Loans and leases for  
24 motor vehicles acquired for personal, family, or  
25 household purposes.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT RE-  
 2 LATING TO QUALIFIED THRIFT INVESTMENTS.—Section  
 3 10(m)(4)(C)(ii) of the Home Owners’ Loan Act (12  
 4 U.S.C. 1467a(m)(4)(C)(ii)) is amended by adding at the  
 5 end the following new subclause:

6 “(VIII) Loans and leases for  
 7 motor vehicles acquired for personal,  
 8 family, or household purposes.”.

9 **SEC. 209. SELLING AND OFFERING OF DEPOSIT PRODUCTS.**

10 Section 15(h) of the Securities Exchange Act of 1934  
 11 (15 U.S.C. 78o(h)) is amended by adding at the end the  
 12 following new paragraph:

13 “(4) SELLING AND OFFERING OF DEPOSIT  
 14 PRODUCTS.—No law, rule, regulation, or order, or  
 15 other administrative action of any State or political  
 16 subdivision thereof shall directly or indirectly require  
 17 any individual who is an agent of 1 Federal savings  
 18 association (as such term is defined in section 2(5)  
 19 of the Home Owners’ Loan Act (12 U.S.C. 1462(5))  
 20 in selling or offering deposit (as such term is defined  
 21 in section 3 of the Federal Deposit Insurance Act  
 22 (12 U.S.C. 1813(l)) products issued by such associa-  
 23 tion to qualify or register as a broker, dealer, associ-  
 24 ated person of a broker, or associated person of a

1 dealer, or to qualify or register in any other similar  
2 status or capacity, if the individual does not—

3 “(A) accept deposits or make withdrawals  
4 on behalf of any customer of the association;

5 “(B) offer or sell a deposit product as an  
6 agent for another entity that is not subject to  
7 supervision and examination by a Federal bank-  
8 ing agency (as defined in section 3(z) of the  
9 Federal Deposit Insurance Act (12 U.S.C.  
10 1813(z)), the National Credit Union Adminis-  
11 tration, or any officer, agency, or other entity  
12 of any State which has primary regulatory au-  
13 thority over State banks, State savings associa-  
14 tions, or State credit unions;

15 “(C) offer or sell a deposit product that is  
16 not an insured deposit (as defined in section  
17 3(m) of the Federal Deposit Insurance Act (12  
18 U.S.C. 1813(m)));

19 “(D) offer or sell a deposit product which  
20 contains a feature that makes it callable at the  
21 option of such Federal savings association; or

22 “(E) create a secondary market with re-  
23 spect to a deposit product or otherwise add en-  
24 hancements or features to such product inde-  
25 pendent of those offered by the association.”.

1 **SEC. 210. FUNERAL- AND CEMETERY-RELATED FIDUCIARY**  
2 **SERVICES.**

3 Section 5(n) of the Home Owners' Loan Act (12  
4 U.S.C. 1464(n)) is amended by adding at the end the fol-  
5 lowing new paragraph:

6 “(11) FUNERAL- AND CEMETERY-RELATED FI-  
7 DUCIARY SERVICES.—

8 “(A) IN GENERAL.—A funeral director or  
9 cemetery operator, when acting in such capac-  
10 ity, (or any other person in connection with a  
11 contract or other agreement with a funeral di-  
12 rector or cemetery operator) may engage any  
13 Federal savings association, regardless of where  
14 the association is located, to act in any fidu-  
15 ciary capacity in which the savings association  
16 has the right to act in accordance with this sec-  
17 tion, including holding funds deposited in trust  
18 or escrow by the funeral director or cemetery  
19 operator (or by such other party), and the sav-  
20 ings association may act in such fiduciary ca-  
21 pacity on behalf of the funeral director or ceme-  
22 tery operator (or such other person).

23 “(B) DEFINITIONS.—For purposes of this  
24 paragraph, the following definitions shall apply:

25 “(i) CEMETERY.—The term ‘ceme-  
26 tery’ means any land or structure used, or

1 intended to be used, for the interment of  
 2 human remains in any form.

3 “(ii) CEMETERY OPERATOR.—The  
 4 term ‘cemetery operator’ means any person  
 5 who contracts or accepts payment for mer-  
 6 chandise, endowment, or perpetual care  
 7 services in connection with a cemetery.

8 “(iii) FUNERAL DIRECTOR.—The term  
 9 ‘funeral director’ means any person who  
 10 contracts or accepts payment to provide or  
 11 arrange—

12 “(I) services for the final disposi-  
 13 tion of human remains; or

14 “(II) funeral services, property,  
 15 or merchandise (including cemetery  
 16 services, property, or merchandise).”.

17 **SEC. 211. REPEAL OF QUALIFIED THRIFT LENDER RE-**  
 18 **QUIREMENT WITH RESPECT TO OUT-OF-**  
 19 **STATE BRANCHES.**

20 Section 5(r)(1) of the Home Owners’ Loan Act (12  
 21 U.S.C. 1464(r)(1)) is amended by striking the last sen-  
 22 tence.



1   **SEC. 212. SMALL BUSINESS AND OTHER COMMERCIAL**  
2                   **LOANS.**

3           (a) ELIMINATION OF LENDING LIMIT ON SMALL  
4 BUSINESS LOANS.—Section 5(c)(1) of the Home Owners’  
5 Loan Act (12 U.S.C. 1464(c)(1)) is amended by inserting  
6 after subparagraph (V) (as added by section 208 of this  
7 title) the following new subparagraph:

8                   “(W) SMALL BUSINESS LOANS.—Small  
9                   business loans, as defined in regulations which  
10                  the Director shall prescribe.”.

11          (b) INCREASE IN LENDING LIMIT ON OTHER BUSI-  
12 NESS LOANS.—Section 5(c)(2)(A) of the Home Owners’  
13 Loan Act (12 U.S.C. 1464(c)(2)(A)) is amended by strik-  
14 ing “, and amounts in excess of 10 percent” and all that  
15 follows through “by the Director”.

16   **SEC. 213. CLARIFYING CITIZENSHIP OF FEDERAL SAVINGS**  
17                   **ASSOCIATIONS FOR FEDERAL COURT JURIS-**  
18                   **DICTION.**

19          Section 5 of the Home Owners’ Loan Act (12 U.S.C.  
20 1464) is amended by adding at the end the following new  
21 subsection:

22          “(x) HOME STATE CITIZENSHIP.—In determining  
23 whether a Federal court has diversity jurisdiction over a  
24 case in which a Federal savings association is a party, the  
25 Federal savings association shall be considered to be a cit-  
26 izen only of the States in which such savings association

1 has its home office and its principal place of business (if  
 2 the principal place of business is in a different State than  
 3 the home office).”.

4 **SEC. 214. INCREASE IN LIMITS ON COMMERCIAL REAL ES-**  
 5 **TATE LOANS.**

6 Section 5(c)(2)(B)(i) of the Home Owners’ Loan Act  
 7 (12 U.S.C. 1464(c)(2)(B)(i)) is amended by striking “400  
 8 percent” and inserting “500 percent”.

9 **SEC. 215. REPEAL OF ONE LIMIT ON LOANS TO ONE BOR-**  
 10 **ROWER.**

11 Subparagraph (A) of section 5(u)(2) of the Home  
 12 Owners’ Loan Act (12 U.S.C. 1464(u)(2)(A)) is amend-  
 13 ed—

14 (1) by striking subclause (I) of clause (ii);

15 (2) by redesignating subclauses (II), (III), (IV),  
 16 and (V) of clause (ii) as subclauses (I), (II), (III),  
 17 and (IV), respectively;

18 (3) in clause (i)—

19 (A) by striking “for any” and inserting  
 20 “For any”; and

21 (B) by striking “; or” and inserting a pe-  
 22 riod; and

23 (4) in clause (ii), by striking “to develop domes-  
 24 tic” and inserting “To develop domestic”.

1 **SEC. 216. SAVINGS ASSOCIATION CREDIT CARD BANKS.**

2 Section 10(a)(1)(A) of the Home Owners' Loan Act  
 3 (12 U.S.C. 1467a(a)(1)(A)) is amended by inserting “and  
 4 such term does not include an institution described in sec-  
 5 tion 2(c)(2)(F) of the Bank Holding Company Act of 1956  
 6 for purposes of subsections (a)(1)(E), (c)(3)(B)(i),  
 7 (c)(9)(C)(i), and (e)(3)” before the period at the end.

8 **SEC. 217. INTERSTATE ACQUISITIONS BY S&L HOLDING**  
 9 **COMPANIES.**

10 Section 10(e)(3) of the Home Owners' Loan Act (12  
 11 U.S.C. 1467a(e)(3)) is amended—

12 (1) by redesignating subparagraphs (A), (B),  
 13 and (C) as subparagraphs (B), (C), and (D), respec-  
 14 tively; and

15 (2) by inserting before subparagraph (B) (as so  
 16 redesignated) the following new subparagraph:

17 “(A) such acquisition would be permissible  
 18 under section 3(d) of the Bank Holding Com-  
 19 pany Act of 1956 if the savings and loan hold-  
 20 ing company were a bank holding company and  
 21 any savings association to be acquired were a  
 22 bank;”.

23 **SEC. 218. BUSINESS ORGANIZATION FLEXIBILITY FOR FED-**  
 24 **ERAL SAVINGS ASSOCIATIONS.**

25 (a) IN GENERAL.—Section 5 of the Home Owners'  
 26 Loan Act (12 U.S.C. 1464) is amended by inserting after

1 subsection (x) (as added by section 213) following new  
2 subsection:

3 “(y) ALTERNATIVE BUSINESS ORGANIZATION.—

4 “(1) IN GENERAL.—The Director may prescribe  
5 regulations that—

6 “(A) permit a Federal savings association  
7 to be organized other than as a corporation;  
8 and

9 “(B) provide requirements for the organi-  
10 zational characteristics of a Federal savings as-  
11 sociation organized and operating other than as  
12 a corporation, consistent with the safety and  
13 soundness of the Federal savings association.

14 “(2) EQUAL TREATMENT.—Except as otherwise  
15 provided in regulations prescribed under subsection  
16 (1), a Federal savings association that is operating  
17 other than as a corporation shall have the same  
18 rights and privileges and shall be subject to the  
19 same duties, restrictions, penalties, liabilities, condi-  
20 tions, and limitations as a Federal savings associa-  
21 tion that is organized as a corporation.”.

22 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

23 (1) Section 5(a)(1) of the Home Owners’ Loan  
24 Act (12 U.S.C. 1464(a)(1)) is amended by striking  
25 “organization, incorporation,” and inserting “organi-

1        zation (as a corporation or other form of business  
 2        organization provided under regulations prescribed  
 3        by the Director under subsection (x)),”.

4            (2) The last sentence of section 5(i)(1) of the  
 5        Home Owners’ Loan Act (12 U.S.C. 1464(i)(1)) is  
 6        amended by striking “incorporated” and inserting  
 7        “organized”.

8            (3) Section 5(o)(1) of the Home Owners’ Loan  
 9        Act (12 U.S.C. 1464(a)(1)) is amended by striking  
 10       “organization, incorporation,” and inserting “organi-  
 11       zation (as a corporation or other form of business  
 12       organization provided under regulations prescribed  
 13       by the Director under subsection (x)),”.

## 14        **TITLE III—CREDIT UNION** 15        **PROVISIONS**

### 16       **SEC. 301. PRIVATELY INSURED CREDIT UNIONS AUTHOR-** 17       **IZED TO BECOME MEMBERS OF A FEDERAL** 18       **HOME LOAN BANK.**

19        (a) IN GENERAL.—Section 4(a) of the Federal Home  
 20       Loan Bank Act (12 U.S.C. 1424(a)) is amended by adding  
 21       at the end the following new paragraph:

22            “(5) CERTAIN PRIVATELY INSURED CREDIT  
 23       UNIONS.—

24            “(A) IN GENERAL.—A credit union which  
 25       has been determined, in accordance with section

1           43(e)(1) of the Federal Deposit Insurance Act  
2           and subject to the requirements of subpara-  
3           graph (B), to meet all eligibility requirements  
4           for Federal deposit insurance shall be treated  
5           as an insured depository institution for pur-  
6           poses of determining the eligibility of such cred-  
7           it union for membership in a Federal home loan  
8           bank under paragraphs (1), (2), and (3).

9           “(B) CERTIFICATION BY APPROPRIATE SU-  
10          PERVISOR.—

11           “(i) IN GENERAL.—For purposes of  
12           this paragraph and subject to clause (ii), a  
13           credit union which lacks Federal deposit  
14           insurance and which has applied for mem-  
15           bership in a Federal home loan bank may  
16           be treated as meeting all the eligibility re-  
17           quirements for Federal deposit insurance  
18           only if the appropriate supervisor of the  
19           State in which the credit union is char-  
20           tered has determined that the credit union  
21           meets all the eligibility requirements for  
22           Federal deposit insurance as of the date of  
23           the application for membership.

24           “(ii)       CERTIFICATION       DEEMED  
25          VALID.—If, in the case of any credit union

to which clause (i) applies, the appropriate supervisor of the State in which such credit union is chartered fails to make a determination pursuant to such clause by the end of the 6-month period beginning on the date of the application, the credit union shall be deemed to have met the requirements of clause (i).

“(C) SECURITY INTERESTS OF FEDERAL HOME LOAN BANK NOT AVOIDABLE.—Notwithstanding any provision of State law authorizing a conservator or liquidating agent of a credit union to repudiate contracts, no such provision shall apply with respect to—

“(i) any extension of credit from any Federal home loan bank to any credit union which is a member of any such bank pursuant to this paragraph; or

“(ii) any security interest in the assets of such credit union securing any such extension of credit.”.

(b) COPIES OF AUDITS OF PRIVATE INSURERS OF CERTAIN DEPOSITORY INSTITUTIONS REQUIRED TO BE PROVIDED TO SUPERVISORY AGENCIES.—Section

1 43(a)(2) of the Federal Deposit Insurance Act (12 U.S.C.  
2 1831t(a)(2)) is amended—

3 (1) by striking “and” at the end of subpara-  
4 graph (A)(i);

5 (2) by striking the period at the end of clause  
6 (ii) of subparagraph (A) and inserting a semicolon;

7 (3) by inserting the following new clauses at the  
8 end of subparagraph (A):

9 “(iii) in the case of depository institu-  
10 tions described in subsection (f)(2)(A) the  
11 deposits of which are insured by the pri-  
12 vate insurer, the National Credit Union  
13 Administration, not later than 7 days after  
14 that audit is completed; and

15 “(iv) in the case of depository institu-  
16 tions described in subsection (f)(2)(A) the  
17 deposits of which are insured by the pri-  
18 vate insurer which are members of a Fed-  
19 eral home loan bank, the Federal Housing  
20 Finance Board, not later than 7 days after  
21 that audit is completed.”; and

22 (4) by adding at the end the following new sub-  
23 paragraph:

24 “(C) CONSULTATION.—The appropriate  
25 supervisory agency of each State in which a pri-



1           vate deposit insurer insures deposits in an insti-  
 2           tution described in subsection (f)(2)(A) which—  
 3                   “(i) lacks Federal deposit insurance;  
 4                   and  
 5                   “(ii) has become a member of a Fed-  
 6                   eral home loan bank,  
 7           shall provide the National Credit Union Admin-  
 8           istration, upon request, with the results of any  
 9           examination and reports related thereto con-  
 10          cerning the private deposit insurer to which  
 11          such agency may have in its possession.”.

12 **SEC. 302. LEASES OF LAND ON FEDERAL FACILITIES FOR**  
 13 **CREDIT UNIONS.**

14       (a) IN GENERAL.—Section 124 of the Federal Credit  
 15 Union Act (12 U.S.C. 1770) is amended—

16           (1) by striking “Upon application by any credit  
 17       union” and inserting “Notwithstanding any other  
 18       provision of law, upon application by any credit  
 19       union”;

20           (2) by inserting “on lands reserved for the use  
 21       of, and under the exclusive or concurrent jurisdiction  
 22       of, the United States or” after “officer or agency of  
 23       the United States charged with the allotment of  
 24       space”;

1 (3) by inserting “lease land or” after “such of-  
 2 ficer or agency may in his or its discretion”; and

3 (4) by inserting “or the facility built on the  
 4 lease land” after “credit union to be served by the  
 5 allotment of space”.

6 (b) CLERICAL AMENDMENT.—The heading for sec-  
 7 tion 124 is amended by inserting “OR FEDERAL LAND”  
 8 after “BUILDINGS”.

9 **SEC. 303. INVESTMENTS IN SECURITIES BY FEDERAL CRED-**  
 10 **IT UNIONS.**

11 Section 107 of the Federal Credit Union Act (12  
 12 U.S.C. 1757) is amended—

13 (1) in the matter preceding paragraph (1) by  
 14 striking “A Federal credit union” and inserting “(a)  
 15 IN GENERAL.—Any Federal credit union”; and

16 (2) by adding at the end the following new sub-  
 17 section:

18 “(b) ADDITIONAL INVESTMENT AUTHORITY.—

19 “(1) IN GENERAL.—In addition to any invest-  
 20 ments otherwise authorized, a Federal credit union  
 21 may purchase and hold for its own account such in-  
 22 vestment securities of investment grade as the  
 23 Board may authorize by regulation, subject to such  
 24 limitations and restrictions as the Board may pre-  
 25 scribe in the regulations.

1           “(2) PERCENTAGE LIMITATIONS.—

2                   “(A) SINGLE OBLIGOR.—In no event may  
3           the total amount of investment securities of any  
4           single obligor or maker held by a Federal credit  
5           union for the credit union’s own account exceed  
6           at any time an amount equal to 10 percent of  
7           the net worth of the credit union.

8                   “(B) AGGREGATE INVESTMENTS.—In no  
9           event may the aggregate amount of investment  
10          securities held by a Federal credit union for the  
11          credit union’s own account exceed at any time  
12          an amount equal to 10 percent of the assets of  
13          the credit union.

14          “(3) INVESTMENT SECURITY DEFINED.—

15                   “(A) IN GENERAL.—For purposes of this  
16          subsection, the term ‘investment security’  
17          means marketable obligations evidencing the in-  
18          debtedness of any person in the form of bonds,  
19          notes, or debentures and other instruments  
20          commonly referred to as investment securities.

21                   “(B) FURTHER DEFINITION BY BOARD.—  
22          The Board may further define the term ‘invest-  
23          ment security’.

24                   “(4) INVESTMENT GRADE DEFINED.—The term  
25          ‘investment grade’ means with respect to an invest-

ment security purchased by a credit union for its own account, an investment security that at the time of such purchase is rated in one of the 4 highest rating categories by at least 1 nationally recognized statistical rating organization.

“(5) CLARIFICATION OF PROHIBITION ON STOCK OWNERSHIP.—No provision of this subsection shall be construed as authorizing a Federal credit union to purchase shares of stock of any corporation for the credit union’s own account, except as otherwise permitted by law.”.

**SEC. 304. INCREASE IN GENERAL 12-YEAR LIMITATION OF TERM OF FEDERAL CREDIT UNION LOANS TO 15 YEARS.**

Section 107(a)(5) of the Federal Credit Union Act (12 U.S.C. 1757(5)) (as so designated by section 303 of this title) is amended—

(1) in the matter preceding subparagraph (A), by striking “to make loans, the maturities of which shall not exceed twelve years except as otherwise provided herein” and inserting “to make loans, the maturities of which shall not exceed 15 years or any longer maturity as the Board may allow, in regulations, except as otherwise provided in this Act”;

(2) in subparagraph (A)—

1 (A) by striking clause (ii);

2 (B) by redesignating clauses (iii) through  
3 (x) as clauses (ii) through (ix), respectively; and

4 (C) by inserting “and” after the semicolon  
5 at the end of clause (viii) (as so redesignated).

6 **SEC. 305. INCREASE IN 1 PERCENT INVESTMENT LIMIT IN**  
7 **CREDIT UNION SERVICE ORGANIZATIONS.**

8 Section 107(a)(7)(I) of the Federal Credit Union Act  
9 (12 U.S.C. 1757(7)(I)) (as so designated by section 303  
10 of this title) is amended by striking “up to 1 per centum  
11 of the total paid” and inserting “up to 3 percent of the  
12 total paid”.

13 **SEC. 306. MEMBER BUSINESS LOAN EXCLUSION FOR LOANS**  
14 **TO NONPROFIT RELIGIOUS ORGANIZATIONS.**

15 Section 107A(a) of the Federal Credit Union Act (12  
16 U.S.C. 1757a(a)) is amended by inserting “, excluding  
17 loans made to nonprofit religious organizations,” after  
18 “total amount of such loans”.

19 **SEC. 307. CHECK CASHING AND MONEY TRANSFER SERV-**  
20 **ICES OFFERED WITHIN THE FIELD OF MEM-**  
21 **BERSHIP.**

22 Paragraph (12) of section 107(a) of the Federal  
23 Credit Union Act (12 U.S.C. 1757(12)) (as so designated  
24 by section 303 of this title) is amended to read as follows:

1           “(12) in accordance with regulations prescribed  
2       by the Board—

3           “(A) to sell, to persons in the field of  
4       membership, negotiable checks (including trav-  
5       elers checks), money orders, and other similar  
6       money transfer instruments (including inter-  
7       national and domestic electronic fund trans-  
8       fers); and

9           “(B) to cash checks and money orders and  
10       receive international and domestic electronic  
11       fund transfers for persons in the field of mem-  
12       bership for a fee;”.

13 **SEC. 308. VOLUNTARY MERGERS INVOLVING MULTIPLE**  
14 **COMMON-BOND CREDIT UNIONS.**

15       Section 109(d)(2) of the Federal Credit Union Act  
16 (12 U.S.C. 1759(d)(2)) is amended—

17           (1) by striking “or” at the end of clause (ii) of  
18       subparagraph (B);

19           (2) by striking the period at the end of sub-  
20       paragraph (C) and inserting “; or”; and

21           (3) by adding at the end the following new sub-  
22       paragraph:

23           “(D) a merger involving any such Federal  
24       credit union approved by the Board on or after  
25       August 7, 1998.”.

1 **SEC. 309. CONVERSIONS INVOLVING COMMON-BOND CRED-**  
 2 **IT UNIONS.**

3 Section 109(g) of the Federal Credit Union Act (12  
 4 U.S.C. 1759(g)) is amended by inserting after paragraph  
 5 (2) the following new paragraph:

6 “(3) CRITERIA FOR CONTINUED MEMBERSHIP  
 7 OF CERTAIN MEMBER GROUPS IN COMMUNITY CHAR-  
 8 TER CONVERSIONS.—In the case of a voluntary con-  
 9 version of a common-bond credit union described in  
 10 paragraph (1) or (2) of subsection (b) into a com-  
 11 munity credit union described in subsection (b)(3),  
 12 the Board shall prescribe, by regulation, the criteria  
 13 under which the Board may determine that a mem-  
 14 ber group or other portion of a credit union’s exist-  
 15 ing membership, that is located outside the well-de-  
 16 fined local community, neighborhood, or rural dis-  
 17 trict that shall constitute the community charter,  
 18 can be satisfactorily served by the credit union and  
 19 remain within the community credit union’s field of  
 20 membership.”.

21 **SEC. 310. CREDIT UNION GOVERNANCE.**

22 (a) EXPULSION OF MEMBERS FOR JUST CAUSE.—  
 23 Subsection (b) of section 118 of the Federal Credit Union  
 24 Act (12 U.S.C. 1764(b)) is amended to read as follows:

25 “(b) POLICY AND ACTIONS OF BOARDS OF DIREC-  
 26 TORS OF FEDERAL CREDIT UNIONS.—

1           “(1) EXPULSION OF MEMBERS FOR NON-  
2 PARTICIPATION OR FOR JUST CAUSE.—The board of  
3 directors of a Federal credit union may, by majority  
4 vote of a quorum of directors, adopt and enforce a  
5 policy with respect to expulsion from membership,  
6 by a majority vote of such board of directors, based  
7 on just cause, including disruption of credit union  
8 operations, or on nonparticipation by a member in  
9 the affairs of the credit union.

10           “(2) WRITTEN NOTICE OF POLICY TO MEM-  
11 BERS.—If a policy described in paragraph (1) is  
12 adopted, written notice of the policy as adopted and  
13 the effective date of such policy shall be provided  
14 to—

15                   “(A) each existing member of the credit  
16 union not less than 30 days prior to the effec-  
17 tive date of such policy; and

18                   “(B) each new member prior to or upon  
19 applying for membership.”.

20           (b) TERM LIMITS AUTHORIZED FOR BOARD MEM-  
21 BERS OF FEDERAL CREDIT UNIONS.—Section 111(a) of  
22 the Federal Credit Union Act (12 U.S.C. 1761(a)) is  
23 amended by adding at the end the following new sentence:  
24 “The bylaws of a Federal credit union may limit the num-



ber of consecutive terms any person may serve on the board of directors of such credit union.”.

(c) REIMBURSEMENT FOR LOST WAGES DUE TO SERVICE ON CREDIT UNION BOARD NOT TREATED AS COMPENSATION.—Section 111(c) of the Federal Credit Union Act (12 U.S.C. 1761(c)) is amended by inserting “, including lost wages,” after “the reimbursement of reasonable expenses”.

**SEC. 311. PROVIDING THE NATIONAL CREDIT UNION ADMINISTRATION WITH GREATER FLEXIBILITY IN RESPONDING TO MARKET CONDITIONS.**

Section 107(a)(5)(A)(v)(I) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(vi)(I)) (as so designated by section 303 and redesignated by section 304(2)(B) of this title) is amended by striking “six-month period and that prevailing interest rate levels” and inserting “6-month period or that prevailing interest rate levels”.

**SEC. 312. EXEMPTION FROM PRE-MERGER NOTIFICATION REQUIREMENT OF THE CLAYTON ACT.**

Section 7A(c)(7) of the Clayton Act (15 U.S.C. 18a(c)(7)) is amended by inserting “section 205(b)(3) of the Federal Credit Union Act (12 U.S.C. 1785(b)(3)),” before “or section 3”.

1 **SEC. 313. TREATMENT OF CREDIT UNIONS AS DEPOSITORY**  
 2 **INSTITUTIONS UNDER SECURITIES LAWS.**

3 (a) DEFINITION OF BANK UNDER THE SECURITIES  
 4 EXCHANGE ACT OF 1934.—Section 3(a)(6) of the Securi-  
 5 ties Exchange Act of 1934 (15 U.S.C. 78c(a)(6)) (as  
 6 amended by section 201(a)(1) of this Act) is amended—

7 (1) by striking “this title, and (D) a receiver”  
 8 and inserting “this title, (D) an insured credit union  
 9 (as defined in section 101(7) of the Federal Credit  
 10 Union Act) but only for purposes of paragraphs (4)  
 11 and (5) of this subsection and only for activities oth-  
 12 erwise authorized by applicable laws to which such  
 13 credit unions are subject, and (E) a receiver”; and

14 (2) in subparagraph (E) (as so redesignated by  
 15 paragraph (1) of this subsection) by striking “(A),  
 16 (B), or (C)” and inserting “(A), (B), (C), or (D)”.

17 (b) DEFINITION OF BANK UNDER THE INVESTMENT  
 18 ADVISERS ACT OF 1940.—Section 202(a)(2) of the In-  
 19 vestment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(2))  
 20 (as amended by section 201(b)(1) of this Act) is amend-  
 21 ed—

22 (1) by striking “this title, and (D) a receiver”  
 23 and inserting “this title, (D) an insured credit union  
 24 (as defined in section 101(7) of the Federal Credit  
 25 Union Act) but only for activities otherwise author-



1 **SEC. 315. AMENDMENTS RELATING TO NONFEDERALLY IN-**  
2 **SURED CREDIT UNIONS.**

3 (a) IN GENERAL.—Subsection (a) of section 43 of the  
4 Federal Deposit Insurance Act (12 U.S.C. 1831t(a)) is  
5 amended by adding at the end the following new para-  
6 graph:

7 “(3) ENFORCEMENT BY APPROPRIATE STATE  
8 SUPERVISOR.—Any appropriate State supervisor of a  
9 private deposit insurer, and any appropriate State  
10 supervisor of a depository institution which receives  
11 deposits that are insured by a private deposit in-  
12 surer, may examine and enforce compliance with this  
13 subsection under the applicable regulatory authority  
14 of such supervisor.”.

15 (b) AMENDMENT RELATING TO DISCLOSURES RE-  
16 QUIRED, PERIODIC STATEMENTS AND ACCOUNT  
17 RECORDS.—Section 43(b)(1) of the Federal Deposit In-  
18 surance Act (12 U.S.C. 1831t(b)(1)) is amended by strik-  
19 ing “or similar instrument evidencing a deposit” and in-  
20 serting “or share certificate”.

21 (c) AMENDMENTS RELATING TO DISCLOSURES RE-  
22 QUIRED, ADVERTISING, PREMISES.— Section 43(b)(2) of  
23 the Federal Deposit Insurance Act (12 U.S.C.  
24 1831t(b)(2)) is amended to read as follows:

25 “(2) ADVERTISING; PREMISES.—

1           “(A) IN GENERAL.—Include clearly and  
2 conspicuously in all advertising, except as pro-  
3 vided in subparagraph (B); and at each station  
4 or window where deposits are normally received,  
5 its principal place of business and all its  
6 branches where it accepts deposits or opens ac-  
7 counts (excluding automated teller machines or  
8 point of sale terminals), and on its main Inter-  
9 net page, a notice that the institution is not  
10 federally insured.

11           “(B) EXCEPTIONS.—The following need  
12 not include a notice that the institution is not  
13 federally insured:

14           “(i) Statements or reports of financial  
15 condition of the depository institution that  
16 are required to be published or posted by  
17 State or Federal law or regulation.

18           “(ii) Any sign, document, or other  
19 item that contains the name of the deposi-  
20 tory institution, its logo, or its contact in-  
21 formation, but only if the sign, document,  
22 or item does not include any information  
23 about the institution’s products or services  
24 or information otherwise promoting the in-  
25 stitution.

1                   “(iii) Small utilitarian items that do  
2                   not mention deposit products or insurance  
3                   if inclusion of the notice would be imprac-  
4                   tical.”.

5           (d) AMENDMENTS RELATING TO ACKNOWLEDGMENT  
6 OF DISCLOSURE.—Section 43(b)(3) of the Federal De-  
7 posit Insurance Act (12 U.S.C. 1831t(b)(3)) is amended  
8 to read as follows:

9                   “(3) ACKNOWLEDGMENT OF DISCLOSURE.—

10                   “(A) NEW DEPOSITORS OBTAINED OTHER  
11                   THAN THROUGH A CONVERSION OR MERGER.—

12                   With respect to any depositor who was not a  
13                   depositor at the depository institution before  
14                   the effective date of the Financial Services Re-  
15                   lief Act of 2005, and who is not a depositor as  
16                   described in subparagraph (B), receive any de-  
17                   posit for the account of such depositor only if  
18                   the depositor has signed a written acknowledge-  
19                   ment that—

20                   “(i) the institution is not federally in-  
21                   sured; and

22                   “(ii) if the institution fails, the Fed-  
23                   eral Government does not guarantee that  
24                   the depositor will get back the depositor’s  
25                   money.

1           “(B) NEW DEPOSITORS OBTAINED  
2 THROUGH A CONVERSION OR MERGER.—With  
3 respect to a depositor at a federally insured de-  
4 pository institution that converts to, or merges  
5 into, a depository institution lacking federal in-  
6 surance after the effective date of the Financial  
7 Services Regulatory Relief Act of 2005, receive  
8 any deposit for the account of such depositor  
9 only if—

10           “(i) the depositor has signed a written  
11 acknowledgement described in subpara-  
12 graph (A); or

13           “(ii) the institution makes an attempt,  
14 as described in subparagraph (D) and sent  
15 by mail no later than 45 days after the ef-  
16 fective date of the conversion or merger, to  
17 obtain the acknowledgment.

18           “(C) CURRENT DEPOSITORS.—Receive any  
19 deposit after the effective date of the Financial  
20 Services Regulatory Relief Act of 2005 for the  
21 account of any depositor who was a depositor  
22 on that date only if—

23           “(i) the depositor has signed a written  
24 acknowledgement described in subpara-  
25 graph (A); or

1 “(ii) the institution makes an attempt,  
2 as described in subparagraph (D) and sent  
3 by mail no later than 45 days after the ef-  
4 fective date of the Financial Services Reg-  
5 ulatory Relief Act of 2005, to obtain the  
6 acknowledgment.

7 “(D) ALTERNATIVE PROVISION OF NOTICE  
8 TO CURRENT DEPOSITORS AND NEW DEPOSI-  
9 TORS OBTAINED THROUGH A CONVERSION OR  
10 MERGER.—

11 “(i) IN GENERAL.—Transmit to each  
12 depositor who has not signed a written ac-  
13 knowledgement described in subparagraph  
14 (A)—

15 “(I) a conspicuous card con-  
16 taining the information described in  
17 clauses (i) and (ii) of subparagraph  
18 (A), and a line for the signature of  
19 the depositor; and

20 “(II) accompanying materials re-  
21 questing the depositor to sign the  
22 card, and return the signed card to  
23 the institution.”.

24 (e) REPEAL OF PROVISION PROHIBITING NON-  
25 DEPOSITORY INSTITUTIONS FROM ACCEPTING DEPOS-



1 ITS.—Section 43 of the Federal Deposit Insurance Act (12  
2 U.S.C. 1831t) is amended—

3 (1) by striking subsection (e); and

4 (2) by redesignating subsections (f) and (g) as  
5 subsections (e) and (f), respectively.

6 (f) REPEAL OF PROVISION CONCERNING NON-  
7 DEPOSITORY INSTITUTIONS MASQUERADING AS DEPOSI-  
8 TORY INSTITUTIONS AND CLARIFICATION OF DEPOSITORY  
9 INSTITUTIONS COVERED BY THE STATUTE.—Subsection  
10 (e)(2) (as so redesignated by subsection (e) of this section)  
11 of section 43 of the Federal Deposit Insurance Act (12  
12 U.S.C. 1831t) is amended to read as follows:

13 “(2) DEPOSITORY INSTITUTION.—The term ‘de-  
14 pository institution’—

15 “(A) includes any entity described in sec-  
16 tion 19(b)(1)(A)(iv) of the Federal Reserve Act;  
17 and

18 “(B) does not include any national bank,  
19 State member bank, or Federal branch.”.

20 (g) REPEAL OF FTC AUTHORITY TO ENFORCE INDE-  
21 PENDENT AUDIT REQUIREMENT; CONCURRENT STATE  
22 ENFORCEMENT.—Subsection (f) (as so redesignated by  
23 subsection (e) of this section) of section 43 of the Federal  
24 Deposit Insurance Act (12 U.S.C. 1831t) is amended to  
25 read as follows:

1 “(f) ENFORCEMENT.—

2 “(1) LIMITED FTC ENFORCEMENT AUTHOR-  
3 ITY.—Compliance with the requirements of sub-  
4 sections (b) and (c), and any regulation prescribed  
5 or order issued under any such subsection, shall be  
6 enforced under the Federal Trade Commission Act  
7 by the Federal Trade Commission.

8 “(2) BROAD STATE ENFORCEMENT AUTHOR-  
9 ITY.—

10 “(A) IN GENERAL.—Subject to subpara-  
11 graph (C), an appropriate State supervisor of a  
12 depository institution lacking Federal deposit  
13 insurance may examine and enforce compliance  
14 with the requirements of this section, and any  
15 regulation prescribed under this section.

16 “(B) STATE POWERS.—For purposes of  
17 bringing any action to enforce compliance with  
18 this section, no provision of this section shall be  
19 construed as preventing an appropriate State  
20 supervisor of a depository institution lacking  
21 Federal deposit insurance from exercising any  
22 powers conferred on such official by the laws of  
23 such State.

24 “(C) LIMITATION ON STATE ACTION  
25 WHILE FEDERAL ACTION PENDING.—If the

1 Federal Trade Commission has instituted an  
 2 enforcement action for a violation of this sec-  
 3 tion, no appropriate State supervisor may, dur-  
 4 ing the pendency of such action, bring an action  
 5 under this section against any defendant named  
 6 in the complaint of the Commission for any vio-  
 7 lation of this section that is alleged in that com-  
 8 plaint.”.

## 9 **TITLE IV—DEPOSITORY** 10 **INSTITUTION PROVISIONS**

### 11 **SEC. 401. EASING RESTRICTIONS ON INTERSTATE BRANCH-** 12 **ING AND MERGERS.**

13 (a) DE NOVO INTERSTATE BRANCHES OF NATIONAL  
 14 BANKS.—

15 (1) IN GENERAL.—Section 5155(g)(1) of the  
 16 Revised Statutes of the United States (12 U.S.C.  
 17 36(g)(1)) is amended by striking “maintain a  
 18 branch if—” and all that follows through the end of  
 19 subparagraph (B) and inserting “maintain a  
 20 branch.”.

21 (2) CLERICAL AMENDMENT.—The heading for  
 22 subsection (g) of section 5155 of the Revised Stat-  
 23 utes of the United States is amended by striking  
 24 “STATE ‘OPT-IN’ ELECTION TO PERMIT”.

1 (b) DE NOVO INTERSTATE BRANCHES OF STATE  
2 NONMEMBER BANKS.—

3 (1) IN GENERAL.—Section 18(d)(4)(A) of the  
4 Federal Deposit Insurance Act (12 U.S.C.  
5 1828(d)(4)(A)) is amended by striking “maintain a  
6 branch if—” and all that follows through the end of  
7 clause (ii) and inserting “maintain a branch.”.

8 (2) INTERSTATE BRANCHING BY SUBSIDIARIES  
9 OF COMMERCIAL FIRMS PROHIBITED.—Section  
10 18(d)(3)) of the Federal Deposit Insurance Act (12  
11 U.S.C. 1828(d)(3)) is amended by adding at the end  
12 the following new subparagraph:

13 “(C) INTERSTATE BRANCHING BY SUBSIDI-  
14 ARIES OF COMMERCIAL FIRMS PROHIBITED.—

15 “(i) IN GENERAL.—If the appropriate  
16 State bank supervisor of the home State of  
17 any industrial loan company, industrial  
18 bank, or other institution described in sec-  
19 tion 2(c)(2)(H) of the Bank Holding Com-  
20 pany Act of 1956, or the appropriate State  
21 bank supervisor of any host State with re-  
22 spect to such company, bank, or institu-  
23 tion, determines that such company, bank,  
24 or institution is controlled, directly or indi-  
25 rectly, by a commercial firm, such com-

pany, bank, or institution may not acquire, establish, or operate a branch in such host State.

“(ii) COMMERCIAL FIRM DEFINED.—For purposes of this subsection, the term ‘commercial firm’ means any entity at least 15 percent of the annual gross revenues of which on a consolidated basis, including all affiliates of the entity, were derived from engaging, on an on-going basis, in activities that are not financial in nature or incidental to a financial activity during at least 3 of the prior 4 calendar quarters.

“(iii) GRANDFATHERED INSTITUTIONS.—Clause (i) shall not apply with respect to any industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956—

“(I) which became an insured depository institution before October 1, 2003 or pursuant to an application for deposit insurance which was approved by the Corporation before such date; and

1                   “(II) with respect to which there  
2                   is no change in control, directly or in-  
3                   directly, of the company, bank, or in-  
4                   stitution after September 30, 2003,  
5                   that requires an application under  
6                   subsection (c), section 7(j), section 3  
7                   of the Bank Holding Company Act of  
8                   1956, or section 10 of the Home  
9                   Owners’ Loan Act.

10                  “(iv) TRANSITION PROVISION.—Any  
11                  divestiture required under this subpara-  
12                  graph of a branch in a host State shall be  
13                  completed as quickly as is reasonably pos-  
14                  sible.

15                  “(v) CORPORATE REORGANIZATIONS  
16                  PERMITTED.—The acquisition of direct or  
17                  indirect control of the company, bank, or  
18                  institution referred to in clause (iii)(II)  
19                  shall not be treated as a ‘change in con-  
20                  trol’ for purposes of such clause if the  
21                  company acquiring control is itself directly  
22                  or indirectly controlled by a company that  
23                  was an affiliate of such company, bank, or  
24                  institution on the date referred to in clause

1 (iii)(II), and remained an affiliate at all  
 2 times after such date.”.

3 (3) TECHNICAL AND CONFORMING AMEND-  
 4 MENTS.—Section 18(d)(4) of the Federal Deposit  
 5 Insurance Act (12 U.S.C. 1828(d)(4)) is amended—

6 (A) in subparagraph (A) by striking “Sub-  
 7 ject to subparagraph (B)” and inserting “Sub-  
 8 ject to subparagraph (B) and paragraph  
 9 (3)(C)”;

10 (B) in subparagraphs (D) and (E), by  
 11 striking “The term” and inserting “For pur-  
 12 poses of this subsection, the term”.

13 (4) CLERICAL AMENDMENT.—The heading for  
 14 paragraph (4) of section 18(d) of the Federal De-  
 15 posit Insurance Act is amended by striking “STATE  
 16 ‘OPT-IN’ ELECTION TO PERMIT INTERSTATE” and in-  
 17 serting “INTERSTATE”.

18 (c) DE NOVO INTERSTATE BRANCHES OF STATE  
 19 MEMBER BANKS.—The 3rd undesignated paragraph of  
 20 section 9 of the Federal Reserve Act (12 U.S.C. 321) is  
 21 amended by adding at the end the following new sen-  
 22 tences: “A State member bank may establish and operate  
 23 a de novo branch in a host State (as such terms are de-  
 24 fined in section 18(d) of the Federal Deposit Insurance  
 25 Act) on the same terms and conditions and subject to the

1 same limitations and restrictions as are applicable to the  
 2 establishment of a de novo branch of a national bank in  
 3 a host State under section 5155(g) of the Revised Statutes  
 4 of the United States or are applicable to an insured State  
 5 nonmember bank under section 18(d)(3) of the Federal  
 6 Deposit Insurance Act”. Such section 5155(g) shall be ap-  
 7 plied for purposes of the preceding sentence by sub-  
 8 stituting ‘Board of Governors of the Federal Reserve Sys-  
 9 tem’ for ‘Comptroller of the Currency’ and ‘State member  
 10 bank’ for ‘national bank’.”.

11 (d) INTERSTATE MERGER OF BANKS.—

12 (1) MERGER OF INSURED BANK WITH ANOTHER  
 13 DEPOSITORY INSTITUTION OR TRUST COMPANY.—

14 Section 44(a)(1) of the Federal Deposit Insurance  
 15 Act (12 U.S.C. 1831u(a)(1)) is amended—

16 (A) by striking “Beginning on June 1,  
 17 1997, the” and inserting “The”; and

18 (B) by striking “insured banks with dif-  
 19 ferent home States” and inserting “an insured  
 20 bank and another insured depository institution  
 21 or trust company with a different home State  
 22 than the resulting insured bank”.

23 (2) NATIONAL BANK TRUST COMPANY MERGER  
 24 WITH OTHER TRUST COMPANY.—Subsection (b) of  
 25 section 4 of the National Bank Consolidation and



1       Merger Act (12 U.S.C. 215a–1(b)) is amended to  
2       read as follows:

3       “(b) MERGER OF NATIONAL BANK TRUST COMPANY  
4 WITH ANOTHER TRUST COMPANY.—A national bank that  
5 is a trust company may engage in a consolidation or merg-  
6 er under this Act with any trust company with a different  
7 home State, under the same terms and conditions that  
8 would apply if the trust companies were located within the  
9 same State.”.

10       (e) INTERSTATE FIDUCIARY ACTIVITY.—Section  
11 18(d) of the Federal Deposit Insurance Act (12 U.S.C.  
12 1828(d)) is amended by adding at the end the following  
13 new paragraph:

14               “(5) INTERSTATE FIDUCIARY ACTIVITY.—

15               “(A) AUTHORITY OF STATE BANK SUPER-  
16 VISOR.—The State bank supervisor of a State  
17 bank may approve an application by the State  
18 bank, when not in contravention of home State  
19 or host State law, to act as trustee, executor,  
20 administrator, registrar of stocks and bonds,  
21 guardian of estates, assignee, receiver, com-  
22 mittee of estates of lunatics, or in any other fi-  
23 duciary capacity in a host State in which State  
24 banks or other corporations which come into

1 competition with national banks are permitted  
2 to act under the laws of such host State.

3 “(B) NONCONTRAVENTION OF HOST STATE  
4 LAW.—Whenever the laws of a host State au-  
5 thorize or permit the exercise of any or all of  
6 the foregoing powers by State banks or other  
7 corporations which compete with national  
8 banks, the granting to and the exercise of such  
9 powers by a State bank as provided in this  
10 paragraph shall not be deemed to be in con-  
11 travention of host State law within the meaning  
12 of this paragraph.

13 “(C) STATE BANK INCLUDES TRUST COM-  
14 PANIES.—For purposes of this paragraph, the  
15 term ‘State bank’ includes any State-chartered  
16 trust company (as defined in section 44(g)).

17 “(D) OTHER DEFINITIONS.—For purposes  
18 of this paragraph, the term ‘home State’ and  
19 ‘host State’ have the meanings given such  
20 terms in section 44.”.

21 (f) TECHNICAL AND CONFORMING AMENDMENTS.—

22 (1) Section 44 of the Federal Deposit Insurance  
23 Act (12 U.S.C. 1831u) is amended—

24 (A) in subsection (a)—

1 (i) by striking paragraph (4) and in-  
2 serting the following new paragraph:

3 “(4) TREATMENT OF BRANCHES IN CONNEC-  
4 TION WITH CERTAIN INTERSTATE MERGER TRANS-  
5 ACTIONS.—In the case of an interstate merger  
6 transaction which involves the acquisition of a  
7 branch of an insured depository institution or trust  
8 company without the acquisition of the insured de-  
9 pository institution or trust company, the branch  
10 shall be treated, for purposes of this section, as an  
11 insured depository institution or trust company the  
12 home State of which is the State in which the  
13 branch is located.”; and

14 (ii) by striking paragraphs (5) and (6)  
15 and inserting the following new paragraph:

16 “(5) APPLICABILITY TO INDUSTRIAL LOAN  
17 COMPANIES.—No provision of this section shall be  
18 construed as authorizing the approval of any trans-  
19 action involving a industrial loan company, indus-  
20 trial bank, or other institution described in section  
21 2(c)(2)(H) of the Bank Holding Company Act of  
22 1956, or the acquisition, establishment, or operation  
23 of a branch by any such company, bank, or institu-  
24 tion, that is not allowed under section 18(d)(3).”.

25 (B) in subsection (b)—

1 (i) by striking “bank” each place such  
2 term appears in paragraph (2)(B)(i) and  
3 inserting “insured depository institution”;

4 (ii) by striking “banks” where such  
5 term appears in paragraph (2)(E) and in-  
6 serting “insured depository institutions or  
7 trust companies”;

8 (iii) by striking “bank affiliate” each  
9 place such term appears in that portion of  
10 paragraph (3) that precedes subparagraph  
11 (A) and inserting “insured depository insti-  
12 tution affiliate”;

13 (iv) by striking “any bank” where  
14 such term appears in paragraph (3)(B)  
15 and inserting “any insured depository in-  
16 stitution”;

17 (v) by striking “bank” where such  
18 term appears in paragraph (4)(A) and in-  
19 serting “insured depository institution and  
20 trust company”; and

21 (vi) by striking “all banks” where  
22 such term appears in paragraph (5) and  
23 inserting “all insured depository institu-  
24 tions and trust companies”;

1 (C) in subsection (d)(1), by striking “any  
2 bank” and inserting “any insured depository in-  
3 stitution or trust company”;

4 (D) in subsection (e)—

5 (i) by striking “1 or more banks” and  
6 inserting “1 or more insured depository in-  
7 stitutions”; and

8 (ii) by striking “paragraph (2), (4), or  
9 (5)” and inserting “paragraph (2)”;

10 (E) by striking clauses (i) and (ii) of sub-  
11 section (g)(4)(A) and inserting the following  
12 new clauses:

13 “(i) with respect to a national bank or  
14 Federal savings association, the State in  
15 which the main office of the bank or sav-  
16 ings association is located; and

17 “(ii) with respect to a State bank,  
18 State savings association, or State-char-  
19 tered trust company, the State by which  
20 the bank, savings association, or trust  
21 company is chartered; and”;

22 (F) by striking paragraph (5) of subsection  
23 (g) and inserting the following new paragraph:

24 “(5) HOST STATE.—The term ‘host State’  
25 means—

1           “(A) with respect to a bank, a State, other  
 2           than the home State of the bank, in which the  
 3           bank maintains, or seeks to establish and main-  
 4           tain, a branch; and

5           “(B) with respect to a trust company and  
 6           solely for purposes of section 18(d)(5), a State,  
 7           other than the home State of the trust com-  
 8           pany, in which the trust company acts, or seeks  
 9           to act, in 1 or more fiduciary capacities.”;

10           (G) in subsection (g)(10), by striking “sec-  
 11           tion 18(c)(2)” and inserting “paragraph (1) or  
 12           (2) of section 18(c), as appropriate,”; and

13           (H) in subsection (g), by adding at the end  
 14           the following new paragraph:

15           “(12) TRUST COMPANY.—The term ‘trust com-  
 16           pany’ means—

17                   “(A) any national bank;

18                   “(B) any savings association; and

19                   “(C) any bank, banking association, trust  
 20           company, savings bank, or other banking insti-  
 21           tution which is incorporated under the laws of  
 22           any State,

23           that is authorized to act in 1 or more fiduciary ca-  
 24           pacities but is not engaged in the business of receiv-

1       ing deposits other than trust funds (as defined in  
2       section 3(p)).”.

3               (2) Section 3(d) of the Bank Holding Company  
4       Act of 1956 (12 U.S.C. 1842(d)) is amended—

5                       (A) in paragraph (1)—

6                               (i) by striking subparagraphs (B) and  
7                               (C); and

8                               (ii) by redesignating subparagraph  
9                               (D) as subparagraph (B); and

10                       (B) in paragraph (5), by striking “sub-  
11       paragraph (B) or (D)” and inserting “subpara-  
12       graph (B)”.

13               (3) Subsection (c) of section 4 of the National  
14       Bank Consolidation and Merger Act (12 U.S.C.  
15       215a–1(c)) is amended to read as follows:

16       “(c) DEFINITIONS.—For purposes of this section, the  
17       terms ‘home State’, ‘out-of-State bank’, and ‘trust com-  
18       pany’ each have the same meaning as in section 44(g) of  
19       the Federal Deposit Insurance Act.”.

20       (g) CLERICAL AMENDMENTS.—

21               (1) The heading for section 44(b)(2)(E) of the  
22       Federal Deposit Insurance Act (12 U.S.C.  
23       1831u(b)(2)(E)) is amended by striking “BANKS”  
24       and inserting “INSURED DEPOSITORY INSTITUTIONS  
25       AND TRUST COMPANIES”.

1           (2) The heading for section 44(e) of the Fed-  
 2           eral Deposit Insurance Act (12 U.S.C. 1831u(e)) is  
 3           amended by striking “BANKS” and inserting “IN-  
 4           SURED DEPOSITORY INSTITUTIONS”.

5   **SEC. 402. STATUTE OF LIMITATIONS FOR JUDICIAL REVIEW**  
 6                           **OF APPOINTMENT OF A RECEIVER FOR DE-**  
 7                           **POSITORY INSTITUTIONS.**

8           (a) NATIONAL BANKS.—Section 2 of the National  
 9   Bank Receivership Act (12 U.S.C. 191) is amended—  
 10           (1) by striking “SECTION 2. The Comptroller  
 11           of the Currency” and inserting the following:

12   **“SEC. 2. APPOINTMENT OF RECEIVER FOR A NATIONAL**  
 13                           **BANK.**

14           “(a) IN GENERAL.—The Comptroller of the Cur-  
 15   rency”; and

16           (2) by adding at the end the following new sub-  
 17   section:

18           “(b) JUDICIAL REVIEW.—If the Comptroller of the  
 19   Currency appoints a receiver under subsection (a), the na-  
 20   tional bank may, within 30 days thereafter, bring an ac-  
 21   tion in the United States district court for the judicial dis-  
 22   trict in which the home office of such bank is located, or  
 23   in the United States District Court for the District of Co-  
 24   lumbia, for an order requiring the Comptroller of the Cur-  
 25   rency to remove the receiver, and the court shall, upon



1 the merits, dismiss such action or direct the Comptroller  
2 of the Currency to remove the receiver.”.

3 (b) INSURED DEPOSITORY INSTITUTIONS.—Section  
4 11(c)(7) of the Federal Deposit Insurance Act (12 U.S.C.  
5 1821(c)(7)) is amended to read as follows:

6 “(7) JUDICIAL REVIEW.—If the Corporation is  
7 appointed (including the appointment of the Cor-  
8 poration as receiver by the Board of Directors) as  
9 conservator or receiver of a depository institution  
10 under paragraph (4), (9), or (10), the depository in-  
11 stitution may, within 30 days thereafter, bring an  
12 action in the United States district court for the ju-  
13 dicial district in which the home office of such de-  
14 pository institution is located, or in the United  
15 States District Court for the District of Columbia,  
16 for an order requiring the Corporation to be re-  
17 moved as the conservator or receiver (regardless of  
18 how such appointment was made), and the court  
19 shall, upon the merits, dismiss such action or direct  
20 the Corporation to be removed as the conservator or  
21 receiver.”.

22 (c) EXPANSION OF PERIOD FOR CHALLENGING THE  
23 APPOINTMENT OF A LIQUIDATING AGENT.—Subpara-  
24 graph (B) of section 207(a)(1) of the Federal Credit

1 Union Act (12 U.S.C. 1787(a)(1)) is amended by striking  
2 “10 days” and inserting “30 days”.

3 (d) EFFECTIVE DATE.—The amendments made by  
4 subsections (a), (b), and (c) shall apply with respect to  
5 conservators, receivers, or liquidating agents appointed on  
6 or after the date of the enactment of this Act.

7 **SEC. 403. REPORTING REQUIREMENTS RELATING TO IN-**  
8 **SIDER LENDING.**

9 (a) REPORTING REQUIREMENTS REGARDING LOANS  
10 TO EXECUTIVE OFFICERS OF MEMBER BANKS.—Section  
11 22(g) of the Federal Reserve Act (12 U.S.C. 375a) is  
12 amended—

13 (1) by striking paragraphs (6) and (9); and

14 (2) by redesignating paragraphs (7), (8), and  
15 (10) as paragraphs (6), (7), and (8), respectively.

16 (b) REPORTING REQUIREMENTS REGARDING LOANS  
17 FROM CORRESPONDENT BANKS TO EXECUTIVE OFFI-  
18 CERS AND SHAREHOLDERS OF INSURED BANKS.—Section  
19 106(b)(2) of the Bank Holding Company Act Amend-  
20 ments of 1970 (12 U.S.C. 1972(2)) is amended—

21 (1) by striking subparagraph (G); and

22 (2) by redesignating subparagraphs (H) and (I)  
23 as subparagraphs (G) and (H), respectively.

1 **SEC. 404. AMENDMENT TO PROVIDE AN INFLATION AD-**  
 2 **JUSTMENT FOR THE SMALL DEPOSITORY IN-**  
 3 **STITUTION EXCEPTION UNDER THE DEPOSI-**  
 4 **TORY INSTITUTION MANAGEMENT INTER-**  
 5 **LOCKS ACT.**

6 Section 203(1) of the Depository Institution Manage-  
 7 ment Interlocks Act (12 U.S.C. 3202(1)) is amended by  
 8 striking “\$20,000,000” and inserting “\$100,000,000”.

9 **SEC. 405. ENHANCING THE SAFETY AND SOUNDNESS OF IN-**  
 10 **SURED DEPOSITORY INSTITUTIONS.**

11 (a) CLARIFICATION RELATING TO THE ENFORCE-  
 12 ABILITY OF AGREEMENTS AND CONDITIONS.—The Fed-  
 13 eral Deposit Insurance Act (12 U.S.C. 1811 et seq.) is  
 14 amended by adding at the end the following new section:  
 15 **“SEC. 49. ENFORCEMENT OF AGREEMENTS.**

16 “(a) IN GENERAL.—Notwithstanding clause (i) or  
 17 (ii) of section 8(b)(6)(A) or section 38(e)(2)(E)(i), an ap-  
 18 propriate Federal banking agency may enforce, under sec-  
 19 tion 8, the terms of—

20 “(1) any condition imposed in writing by the  
 21 agency on a depository institution or an institution-  
 22 affiliated party (including a bank holding company)  
 23 in connection with any action on any application, no-  
 24 tice, or other request concerning a depository insti-  
 25 tution; or

1           “(2) any written agreement entered into be-  
 2           tween the agency and an institution-affiliated party  
 3           (including a bank holding company).

4           “(b) RECEIVERSHIPS AND CONSERVATORSHIPS.—  
 5           After the appointment of the Corporation as the receiver  
 6           or conservator for any insured depository institution, the  
 7           Corporation may enforce any condition or agreement de-  
 8           scribed in paragraph (1) or (2) of subsection (a) involving  
 9           such institution or any institution-affiliated party (includ-  
 10          ing a bank holding company), through an action brought  
 11          in an appropriate United States district court.”.

12          (b) PROTECTION OF CAPITAL OF INSURED DEPOSI-  
 13          TORY INSTITUTIONS.—Paragraph (1) of section 18(u) of  
 14          the Federal Deposit Insurance Act (12 U.S.C. 1828(u))  
 15          is amended by striking subparagraph (B) and by redesign-  
 16          ating subparagraph (C) as subparagraph (B).

17       **SEC. 406. INVESTMENTS BY INSURED SAVINGS ASSOCIA-**  
 18                               **TIONS IN BANK SERVICE COMPANIES AU-**  
 19                               **THORIZED.**

20          (a) IN GENERAL.—Sections 2 and 3 of the Bank  
 21          Service Company Act (12 U.S.C. 1862, 1863) are each  
 22          amended by striking “insured bank” each place such term  
 23          appears and inserting “insured depository institution”.

24          (b) TECHNICAL AND CONFORMING AMENDMENTS.—

1           (1) Section 1(b)(4) of the Bank Service Com-  
2           pany Act (12 U.S.C. 1861(b)(4)) is amended—

3                   (A) by inserting “, except when such term  
4                   appears in connection with the term ‘insured  
5                   depository institution’,” after “means”; and

6                   (B) by striking “Federal Home Loan Bank  
7                   Board” and inserting “Director of the Office of  
8                   Thrift Supervision”.

9           (2) Section 1(b) of the Bank Service Company  
10          Act (12 U.S.C. 1861(b)) is amended—

11                   (A) by striking paragraph (5) and insert-  
12                   ing the following new paragraph:

13                   “(5) INSURED DEPOSITORY INSTITUTION.—The  
14                   term ‘insured depository institution’ has the mean-  
15                   ing given the term in section 3(c) of the Federal De-  
16                   posit Insurance Act;”;

17                   (B) by striking “and” at the end of para-  
18                   graph (7);

19                   (C) by striking the period at the end of  
20                   paragraph (8) and inserting “; and”; and

21                   (D) by adding at the end the following new  
22                   paragraph:

23                   “(9) the terms ‘State depository institution’,  
24                   ‘Federal depository institution’, ‘State savings asso-  
25                   ciation’ and ‘Federal savings association’ have the

meanings given the terms in section 3 of the Federal Deposit Insurance Act.”.

(3) The 1st sentence of section 5(c)(4)(B) of the Home Owners’ Loan Act (12 U.S.C. 1464(c)(4)(B)) is amended by striking “by savings associations of such State and by Federal associations” and inserting “by State and Federal depository institutions”.

(4) Subparagraph (A)(ii) and subparagraph (B)(ii) of section 1(b)(2) of the Bank Service Company Act (12 U.S.C. 1861(b)(2)) are each amended by striking “insured banks” and inserting “insured depository institutions”.

(5) Section 1(b)(8) of the Bank Service Company Act (12 U.S.C. 1861(b)(8)) is further amended—

(A) by striking “insured bank” and inserting “insured depository institution”;

(B) by striking “insured banks” each place such term appears and inserting “insured depository institutions”; and

(C) by striking “the bank’s” and inserting “the depository institution’s”.

(6) Section 2 of the Bank Service Company Act (12 U.S.C. 1862) is amended by inserting “or sav-

1        ings associations, other than the limitation on the  
2        amount of investment by a Federal savings associa-  
3        tion contained in section 5(c)(4)(B) of the Home  
4        Owners' Loan Act" after "relating to banks".

5            (7) Section 4(b) of the Bank Service Company  
6        Act (12 U.S.C. 1864(b)) is amended by inserting  
7        "as permissible under subsection (c), (d), or (e) or"  
8        after "Except".

9            (8) Section 4(c) of the Bank Service Company  
10       Act (12 U.S.C. 1864(c)) is amended by inserting "or  
11       State savings association" after "State bank" each  
12       place such term appears.

13           (9) Section 4(d) of the Bank Service Company  
14       Act (12 U.S.C. 1864(d)) is amended by inserting  
15       "or Federal savings association" after "national  
16       bank" each place such term appears.

17           (10) Section 4(e) of the Bank Service Company  
18       Act (12 U.S.C. 1864(e)) is amended to read as fol-  
19       lows:

20       "(e) A bank service company may perform—

21            "(1) only those services that each depository in-  
22       stitution shareholder or member is otherwise author-  
23       ized to perform under any applicable Federal or  
24       State law; and

1           “(2) such services only at locations in a State  
2           in which each such shareholder or member is author-  
3           ized to perform such services.”.

4           (11) Section 4(f) of the Bank Service Company  
5           Act (12 U.S.C. 1864(f)) is amended by inserting “or  
6           savings associations” after “location of banks”.

7           (12) Section 5 of the Bank Service Company  
8           Act (12 U.S.C. 1865) is amended—

9                   (A) in subsection (a)—

10                         (i) by striking “insured bank” and in-  
11                         serting “insured depository institution”;  
12                         and

13                         (ii) by striking “bank’s” and inserting  
14                         “institution’s”;

15                   (B) in subsection (b)—

16                         (i) by striking “insured bank” and in-  
17                         serting “insured depository institution”;

18                         (ii) by inserting “authorized only”  
19                         after “performs any service”; and

20                         (iii) by inserting “authorized only”  
21                         after “perform any activity”; and

22                   (C) in subsection (c)—

23                         (i) by striking “the bank or banks”  
24                         and inserting “any depository institution”;  
25                         and



1 (ii) by striking “capability of the  
 2 bank” and inserting “capability of the de-  
 3 pository institution”.

4 (13) Section 7 of the Bank Service Company  
 5 Act (12 U.S.C. 1867) is amended—

6 (A) in subsection (b), by striking “insured  
 7 bank” and inserting “insured depository insti-  
 8 tution”; and

9 (B) in subsection (c)—

10 (i) by striking “a bank” each place  
 11 such term appears and inserting “a deposi-  
 12 tory institution”; and

13 (ii) by striking “the bank” each place  
 14 such term appears and inserting “the de-  
 15 pository institution”.

16 **SEC. 407. CROSS GUARANTEE AUTHORITY.**

17 Subparagraph (A) of section 5(e)(9) of the Federal  
 18 Deposit Insurance Act (12 U.S.C. 1815(e)(9)(A)) is  
 19 amended to read as follows:

20 “(A) such institutions are controlled by the  
 21 same company; or”.

22 **SEC. 408. GOLDEN PARACHUTE AUTHORITY AND NONBANK**  
 23 **HOLDING COMPANIES.**

24 Subsection (k) of section 18 of the Federal Deposit  
 25 Insurance Act (12 U.S.C. 1828(k)) is amended—

1           (1) in paragraph (2)(A), by striking “or depository  
2           institution holding company” and inserting “or  
3           covered company”;

4           (2) by striking subparagraph (B) of paragraph  
5           (2) and inserting the following new subparagraph:

6                   “(B) Whether there is a reasonable basis  
7           to believe that the institution-affiliated party is  
8           substantially responsible for—

9                           “(i) the insolvency of the depository  
10                   institution or covered company;

11                           “(ii) the appointment of a conservator  
12                   or receiver for the depository institution; or

13                           “(iii) the depository institution’s trou-  
14                   bled condition (as defined in the regula-  
15                   tions prescribed pursuant to section  
16                   32(f)).”;

17           (3) in paragraph (2)(F), by striking “depository  
18           institution holding company” and inserting “covered  
19           company,”;

20           (4) in paragraph (3) in the matter preceding  
21           subparagraph (A), by striking “depository institu-  
22           tion holding company” and inserting “covered com-  
23           pany”;

24           (5) in paragraph (3)(A), by striking “holding  
25           company” and inserting “covered company”;

1 (6) in paragraph (4)(A)—

2 (A) by striking “depository institution  
3 holding company” each place such term appears  
4 and inserting “covered company”; and

5 (B) by striking “holding company” each  
6 place such term appears (other than in connec-  
7 tion with the term referred to in subparagraph  
8 (A)) and inserting “covered company”;

9 (7) in paragraph (5)(A), by striking “depository  
10 institution holding company” and inserting “covered  
11 company”;

12 (8) in paragraph (5), by adding at the end the  
13 following new subparagraph:

14 “(D) COVERED COMPANY.—The term ‘cov-  
15 ered company’ means any depository institution  
16 holding company (including any company re-  
17 quired to file a report under section 4(f)(6) of  
18 the Bank Holding Company Act of 1956), or  
19 any other company that controls an insured de-  
20 pository institution.”; and

21 (9) in paragraph (6)—

22 (A) by striking “depository institution  
23 holding company” and inserting “covered com-  
24 pany,”; and

1 (B) by striking “or holding company” and  
2 inserting “or covered company”.

3 **SEC. 409. AMENDMENTS RELATING TO CHANGE IN BANK**  
4 **CONTROL.**

5 Section 7(j) of the Federal Deposit Insurance Act (12  
6 U.S.C. 1817(j)) is amended—

7 (1) in paragraph (1)(D)—

8 (A) by striking “is needed to investigate”  
9 and inserting “is needed—

10 “(i) to investigate”;

11 (B) by striking “United States Code.” and  
12 inserting “United States Code; or”; and

13 (C) by adding at the end the following new  
14 clause:

15 “(ii) to analyze the safety and sound-  
16 ness of any plans or proposals described in  
17 paragraph (6)(E) or the future prospects  
18 of the institution.”; and

19 (2) in paragraph (7)(C), by striking “the finan-  
20 cial condition of any acquiring person” and inserting  
21 “either the financial condition of any acquiring per-  
22 son or the future prospects of the institution”.

1 **SEC. 410. COMMUNITY REINVESTMENT CREDIT FOR ESOPS**  
2 **AND EWOCs.**

3 Section 804 of the Community Reinvestment Act of  
4 1977 (12 U.S.C. 2903) is amended by adding at the end  
5 the following new subsection—

6 “(d) ESTABLISHMENT OF ESOPS AND EWOCs.—

7 “(1) IN GENERAL.—In assessing and taking  
8 into account, under subsection (a), the record of a  
9 financial institution, the appropriate Federal finan-  
10 cial supervisory agency shall consider as a factor ac-  
11 tivities that support or enable the establishment of  
12 employee stock ownership plans or eligible worker-  
13 owned cooperatives, so long as the employer spon-  
14 soring the plan or cooperative is at least 51 percent  
15 owned by employees, including low to moderate in-  
16 come employees.

17 “(2) DEFINITIONS.—For purposes of this sub-  
18 section, the following definitions shall apply:

19 “(A) EMPLOYEE STOCK OWNERSHIP  
20 PLAN.—The term ‘employee stock ownership  
21 plan’ has the same meaning as in section  
22 4975(e)(7) of the Internal Revenue Code of  
23 1986.

24 “(B) ELIGIBLE WORKER-OWNED COOPERA-  
25 TIVE.—The term ‘eligible worker-owned cooper-  
26 ative’ has the same meaning as in section

1           1042(c)(2) of the Internal Revenue Code of  
2           1986.”.

3 **SEC. 411. MINORITY FINANCIAL INSTITUTIONS.**

4           (a) IN GENERAL.—The Federal Deposit Insurance  
5 Corporation and the Office of Thrift Supervision shall pro-  
6 vide such technical assistance to minority financial institu-  
7 tions affected by Hurricane Katrina, Hurricane Rita, and  
8 Hurricane Wilma as may be appropriate to preserve the  
9 present number of minority depository institutions and  
10 preserve the minority character in cases involving mergers  
11 or acquisitions of a minority depository institution con-  
12 sistent with section 308(a) of the Financial Institutions  
13 Reform, Recovery, and Enforcement Act of 1989.

14           (b) MINORITY FINANCIAL INSTITUTION DEFINED.—  
15 For purposes of this subsection, the term “minority finan-  
16 cial institution” has the same meaning as in section  
17 308(b) of the Financial Institutions Reform, Recovery,  
18 and Enforcement Act of 1989.

19 **TITLE V—DEPOSITORY INSTITU-**  
20 **TION AFFILIATES PROVI-**  
21 **SIONS**

22 **SEC. 501. CLARIFICATION OF CROSS MARKETING PROVI-**  
23 **SION.**

24           Section 4(n)(5) of the Bank Holding Company Act  
25 of 1956 (12 U.S.C. 1843(n)(5)) is amended—

1           (1) in subparagraph (B), by striking “sub-  
 2           section (k)(4)(I)” and inserting “subparagraph (H)  
 3           or (I) of subsection (k)(4)”; and

4           (2) by adding at the end the following new sub-  
 5           paragraph:

6                       “(C) THRESHOLD OF CONTROL.—Subpara-  
 7           graph (A) shall not apply with respect to a  
 8           company described or referred to in clause (i)  
 9           or (ii) of such subparagraph if the financial  
 10          holding company does not own or control 25  
 11          percent or more of the total equity or any class  
 12          of voting securities of such company.”.

13 **SEC. 502. AMENDMENT TO PROVIDE THE FEDERAL RE-**  
 14 **SERVE BOARD WITH DISCRETION CON-**  
 15 **CERNING THE IMPUTATION OF CONTROL OF**  
 16 **SHARES OF A COMPANY BY TRUSTEES.**

17          Section 2(g)(2) of the Bank Holding Company Act  
 18 of 1956 (12 U.S.C. 1841(g)(2)) is amended by inserting  
 19 “, unless the Board determines that such treatment is not  
 20 appropriate in light of the facts and circumstances of the  
 21 case and the purposes of this Act” before the period at  
 22 the end.

1 **SEC. 503. ELIMINATING GEOGRAPHIC LIMITS ON THRIFT**  
2 **SERVICE COMPANIES.**

3 (a) IN GENERAL.—The 1st sentence of section  
4 5(c)(4)(B) of the Home Owners’ Loan Act (12 U.S.C.  
5 1464(c)(4)(B)) (as amended by section 406(b)(3) of this  
6 Act) is amended—

7 (1) by striking “corporation organized” and all  
8 that follows through “is available for purchase” and  
9 inserting “company, if the entire capital of the com-  
10 pany is available for purchase”; and

11 (2) by striking “having their home offices in  
12 such State”.

13 (b) TECHNICAL CORRECTIONS.—

14 (1) The heading for subparagraph (B) of sec-  
15 tion 5(c)(4) of the Home Owners’ Loan Act (12  
16 U.S.C. 1464(c)(4)(B)) is amended by striking “COR-  
17 PORATIONS” and inserting “COMPANIES”.

18 (2) The 2nd sentence of section 5(n)(1) of the  
19 Home Owners’ Loan Act (12 U.S.C. 1464(n)(1)) is  
20 amended by striking “service corporations” and in-  
21 serting “service companies”.

22 (3) Section 5(q)(1) of the Home Owners’ Loan  
23 Act (12 U.S.C. 1464(q)(1)) is amended by striking  
24 “service corporation” each place such term appears  
25 in subparagraphs (A), (B), and (C) and inserting  
26 “service company”.



1           (4) Section 10(m)(4)(C)(iii)(II) of the Home  
 2   Owners’        Loan        Act        (12        U.S.C.  
 3   1467a(m)(4)(C)(iii)(II)) is amended by striking  
 4   “service corporation” each place such term appears  
 5   and inserting “service company”.

6 **SEC. 504. CLARIFICATION OF SCOPE OF APPLICABLE RATE**  
 7                           **PROVISION.**

8       Section 44(f) of the Federal Deposit Insurance Act  
 9   (12 U.S.C. 1831u(f)) is amended by adding at the end  
 10 the following new paragraphs:

11           “(3) OTHER LENDERS.—In the case of any  
 12   other lender doing business in the State described in  
 13   paragraph (1), the maximum interest rate or  
 14   amount of interest, discount points, finance charges,  
 15   or other similar charges that may be charged, taken,  
 16   received, or reserved from time to time in any loan,  
 17   discount, or credit sale made, or upon any note, bill  
 18   of exchange, financing transaction, or other evidence  
 19   of debt issued to or acquired by any other lender  
 20   shall be equal to not more than the greater of the  
 21   rates described in subparagraph (A) or (B) of para-  
 22   graph (1).

23           “(4) OTHER LENDER DEFINED.—For purposes  
 24   of paragraph (3), the term ‘other lender’ means any  
 25   person engaged in the business of selling or financ-

ing the sale of personal property (and any services incidental to the sale of personal property) in such State, except that, with regard to any person or entity described in such paragraph, such term does not include—

“(A) an insured depository institution; or

“(B) any person or entity engaged in the business of providing a short-term cash advance to any consumer in exchange for—

“(i) a consumer’s personal check or share draft, in the amount of the advance plus a fee, where presentment or negotiation of such check or share draft is deferred by agreement of the parties until a designated future date; or

“(ii) a consumer authorization to debit the consumer’s transaction account, in the amount of the advance plus a fee, where such account will be debited on or after a designated future date.”.

**SEC. 505. SAVINGS ASSOCIATIONS ACTING AS AGENTS FOR  
AFFILIATED DEPOSITORY INSTITUTIONS.**

(a) IN GENERAL.—Section 18(r) of the Federal Deposit Insurance Act (12 U.S.C. 1828(r)) is amended—

(1) in paragraph (1)—

1 (A) by striking “bank subsidiary” and in-  
 2 serting “depository institution subsidiary”; and

3 (B) by striking “bank holding company”  
 4 and inserting “depository institution holding  
 5 company”;

6 (2) in paragraph (2), by striking “a bank act-  
 7 ing” and inserting “a depository institution acting”;

8 (3) in paragraphs (3) and (5), by striking “or  
 9 (6)” each place such term appears in each such  
 10 paragraph; and

11 (4) by striking paragraph (6).

12 (b) CLERICAL AMENDMENT.—The heading for sec-  
 13 tion 18(r)(2) of the Federal Deposit Insurance Act (12  
 14 U.S.C. 1828(r)) is amended by striking “BANK” and in-  
 15 serting “DEPOSITORY INSTITUTION”.

16 **SEC. 506. CREDIT CARD BANK INVESTMENTS FOR THE PUB-**  
 17 **LIC WELFARE.**

18 Section 2(c)(2)(F) of the Bank Holding Company Act  
 19 of 1956 (12 U.S.C. 1841(c)(2)(F)) is amended—

20 (1) in clause (i), by striking “engages only in  
 21 credit card operations;” and inserting “engages only  
 22 in—

23 “(I) credit card operations; and

24 “(II) making investments de-  
 25 signed primarily to promote the public

1 welfare, including the welfare of low-  
 2 and moderate-income communities or  
 3 families (such as by providing hous-  
 4 ing, services, or jobs), in the manner  
 5 and to the extent permitted for na-  
 6 tional banks under the paragraph des-  
 7 ignated the ‘Eleventh’ of section 5136  
 8 of the Revised Statutes of the United  
 9 States and regulations prescribed  
 10 under such paragraph, except that the  
 11 last sentence of such paragraph shall  
 12 be applied for purposes of this sub-  
 13 clause by substituting ‘5 percent’ for  
 14 ‘15 percent’ each place such term ap-  
 15 pears; ”; and

16 (2) in clause (v), by inserting “, other than  
 17 making or purchasing loans for the purposes de-  
 18 scribed in and to the extent permitted in clause  
 19 (i)(II))” before the period at the end.

## 20 **TITLE VI—BANKING AGENCY**

### 21 **PROVISIONS**

#### 22 **SEC. 601. WAIVER OF EXAMINATION SCHEDULE IN ORDER**

#### 23 **TO ALLOCATE EXAMINER RESOURCES.**

24 Section 10(d) of the Federal Deposit Insurance Act  
 25 (12 U.S.C. 1820(d)) is amended—

1           (1) by redesignating paragraphs (5), (6), (7),  
2           (8), (9), and (10) as paragraphs (6), (7), (8), (9),  
3           (10), and (11), respectively;

4           (2) by inserting after paragraph (4), the fol-  
5           lowing new paragraph:

6           “(5) WAIVER OF SCHEDULE WHEN NECESSARY  
7           TO ACHIEVE SAFE AND SOUND ALLOCATION OF EX-  
8           AMINER RESOURCES.—Notwithstanding paragraphs  
9           (1), (2), (3), and (4), an appropriate Federal bank-  
10          ing agency may make adjustments in the examina-  
11          tion cycle for an insured depository institution if  
12          necessary to allocate available resources of exam-  
13          iners in a manner that provides for the safety and  
14          soundness of, and the effective examination and su-  
15          pervision of, insured depository institutions.”; and

16          (3) in paragraphs (8) and (9), as so redesign-  
17          ated, by striking “paragraph (6)” and inserting  
18          “paragraph (7)”.

19 **SEC. 602. INTERAGENCY DATA SHARING.**

20          (a) FEDERAL BANKING AGENCIES.—Section 7(a)(2)  
21 of the Federal Deposit Insurance Act (12 U.S.C.  
22 1817(a)(2)) is amended by adding at the end the following  
23 new subparagraph:

24                 “(C) DATA SHARING WITH OTHER AGEN-  
25                 CIES AND PERSONS.—In addition to reports of

1 examination, reports of condition, and other re-  
2 ports required to be regularly provided to the  
3 Corporation (with respect to all insured deposi-  
4 tory institutions, including a depository institu-  
5 tion for which the Corporation has been ap-  
6 pointed conservator or receiver) or an appro-  
7 priate State bank supervisor (with respect to a  
8 State depository institution) under subpara-  
9 graph (A) or (B), a Federal banking agency  
10 may, in the agency's discretion, furnish any re-  
11 port of examination or other confidential super-  
12 visory information concerning any depository  
13 institution or other entity examined by such  
14 agency under authority of any Federal law,  
15 to—

16 “(i) any other Federal or State agen-  
17 cy or authority with supervisory or regu-  
18 latory authority over the depository institu-  
19 tion or other entity;

20 “(ii) any officer, director, or receiver  
21 of such depository institution or entity;  
22 and

23 “(iii) any other person the Federal  
24 banking agency determines to be appro-  
25 priate.”.

1 (b) NATIONAL CREDIT UNION ADMINISTRATION.—  
2 Section 202(a) of the Federal Credit Union Act (12  
3 U.S.C. 1782(a)) is amended by adding at the end the fol-  
4 lowing new paragraph:

5 “(8) DATA SHARING WITH OTHER AGENCIES  
6 AND PERSONS.—In addition to reports of examina-  
7 tion, reports of condition, and other reports required  
8 to be regularly provided to the Board (with respect  
9 to all insured credit unions, including a credit union  
10 for which the Corporation has been appointed con-  
11 servator or liquidating agent) or an appropriate  
12 State commission, board, or authority having super-  
13 vision of a State-chartered credit union, the Board  
14 may, in the Board’s discretion, furnish any report of  
15 examination or other confidential supervisory infor-  
16 mation concerning any credit union or other entity  
17 examined by the Board under authority of any Fed-  
18 eral law, to—

19 “(A) any other Federal or State agency or  
20 authority with supervisory or regulatory author-  
21 ity over the credit union or other entity;

22 “(B) any officer, director, or receiver of  
23 such credit union or entity; and

1                   “(C) any other institution-affiliated party  
2                   of such credit union or entity the Board deter-  
3                   mines to be appropriate.”.

4 **SEC. 603. PENALTY FOR UNAUTHORIZED PARTICIPATION**  
5 **BY CONVICTED INDIVIDUAL.**

6           Section 19 of the Federal Deposit Insurance Act (12  
7 U.S.C. 1829) is amended by adding at the end the fol-  
8 lowing new subsection:

9           “(c) NONINSURED BANKS.—Subsections (a) and (b)  
10 shall apply to a noninsured national bank and a non-  
11 insured State member bank, and any agency or non-  
12 insured branch (as such terms are defined in section 1(b)  
13 of the International Banking Act of 1978) of a foreign  
14 bank as if such bank, branch, or agency were an insured  
15 depository institution, except such subsections shall be ap-  
16 plied for purposes of this subsection by substituting the  
17 agency determined under the following paragraphs for  
18 ‘Corporation’ each place such term appears in such sub-  
19 sections:

20                   “(1) The Comptroller of the Currency, in the  
21                   case of a noninsured national bank or any Federal  
22                   agency or noninsured Federal branch of a foreign  
23                   bank.

24                   “(2) The Board of Governors of the Federal  
25                   Reserve System, in the case of a noninsured State



1 member bank or any State agency or noninsured  
 2 State branch of a foreign bank.”.

3 **SEC. 604. AMENDMENT PERMITTING THE DESTRUCTION OF**  
 4 **OLD RECORDS OF A DEPOSITORY INSTITU-**  
 5 **TION BY THE FDIC AFTER THE APPOINTMENT**  
 6 **OF THE FDIC AS RECEIVER.**

7 Section 11(d)(15)(D) of the Federal Deposit Insur-  
 8 ance Act (12 U.S.C. 1821(d)(15)(D)) is amended—

9 (1) by striking “RECORDKEEPING REQUIRE-  
 10 MENT.—After the end of the 6-year period” and in-  
 11 serting “RECORDKEEPING REQUIREMENT.—

12 “(i) IN GENERAL.—Except as pro-  
 13 vided in clause (ii), after the end of the 6-  
 14 year period”;

15 (2) by striking “to be unnecessary” and insert-  
 16 ing “are unnecessary and not relevant to any pend-  
 17 ing or reasonably probable future litigation”; and

18 (3) by adding at the end the following new  
 19 clause:

20 “(ii) OLD RECORDS.—In the case of  
 21 records of an insured depository institution  
 22 which—

23 “(I) are at least 10 years old, as  
 24 of the date the Corporation is ap-

1 pointed as the receiver of such depository institution; and

3 “(II) are unnecessary and not  
4 relevant to any pending or reasonably  
5 probable future litigation, as provided  
6 in clause (i),

7 the Corporation may destroy such records  
8 in accordance with clause (i) any time  
9 after such appointment is final without re-  
10 gard to the 6-year period of limitation con-  
11 tained in such clause.”.

12 **SEC. 605. MODERNIZATION OF RECORDKEEPING REQUIRE-**  
13 **MENT.**

14 Subsection (f) of section 10 of the Federal Deposit  
15 Insurance Act (12 U.S.C. 1820(f)) is amended to read as  
16 follows:

17 “(f) PRESERVATION OF AGENCY RECORDS.—

18 “(1) IN GENERAL.—A Federal banking agency  
19 may cause any and all records, papers, or documents  
20 kept by the agency or in the possession or custody  
21 of the agency to be—

22 “(A) photographed or microphotographed  
23 or otherwise reproduced upon film; or

24 “(B) preserved in any electronic medium  
25 or format which is capable of—

1                   “(i) being read or scanned by com-  
2                   puter; and

3                   “(ii) being reproduced from such elec-  
4                   tronic medium or format by printing or  
5                   any other form of reproduction of elec-  
6                   tronically stored data.

7                   “(2) TREATMENT AS ORIGINAL RECORDS.—Any  
8                   photographs, microphotographs, or photographic  
9                   film or copies thereof described in paragraph (1)(A)  
10                  or reproduction of electronically stored data de-  
11                  scribed in paragraph (1)(B) shall be deemed to be  
12                  an original record for all purposes, including intro-  
13                  duction in evidence in all State and Federal courts  
14                  or administrative agencies and shall be admissible to  
15                  prove any act, transaction, occurrence, or event  
16                  therein recorded.

17                  “(3) AUTHORITY OF THE FEDERAL BANKING  
18                  AGENCIES.—Any photographs, microphotographs, or  
19                  photographic film or copies thereof described in  
20                  paragraph (1)(A) or reproduction of electronically  
21                  stored data described in paragraph (1)(B) shall be  
22                  preserved in such manner as the Federal banking  
23                  agency shall prescribe and the original records, pa-  
24                  pers, or documents may be destroyed or otherwise

1       disposed of as the Federal banking agency may di-  
2       rect.”.

3   **SEC. 606. STREAMLINING REPORTS OF CONDITION.**

4       Section 7(a) of the Federal Deposit Insurance Act  
5   (12 U.S.C. 1817(a)) is amended by adding the following  
6   new paragraph:

7               “(11) STREAMLINING REPORTS OF CONDI-  
8       TION.—

9               “(A) REVIEW OF INFORMATION AND  
10       SCHEDULES.—Before the end of the 1-year pe-  
11       riod beginning on the date of the enactment of  
12       the Financial Services Regulatory Relief Act of  
13       2005 and before the end of each 5-year period  
14       thereafter, each Federal banking agency shall,  
15       in consultation with the other relevant Federal  
16       banking agencies, review the information and  
17       schedules that are required to be filed by an in-  
18       sured depository institution in a report of con-  
19       dition required under paragraph (3).

20               “(B) REDUCTION OR ELIMINATION OF IN-  
21       FORMATION FOUND TO BE UNNECESSARY.—  
22       After completing the review required by sub-  
23       paragraph (A), a Federal banking agency, in  
24       consultation with the other relevant Federal  
25       banking agencies, shall reduce or eliminate any

1 requirement to file information or schedules  
 2 under paragraph (3) (other than information or  
 3 schedules that are otherwise required by law) if  
 4 the agency determines that the continued collec-  
 5 tion of such information or schedules is no  
 6 longer necessary or appropriate.”.

7 **SEC. 607. EXPANSION OF ELIGIBILITY FOR 18-MONTH EX-**  
 8 **AMINATION SCHEDULE FOR COMMUNITY**  
 9 **BANKS.**

10 Paragraph (4)(A) of section 10(d) of the Federal De-  
 11 posit Insurance Act (12 U.S.C. 1820(d)) is amended by  
 12 striking “\$250,000,000” and inserting “\$1,000,000,000”.

13 **SEC. 608. SHORT FORM REPORTS OF CONDITION FOR CER-**  
 14 **TAIN COMMUNITY BANKS.**

15 (a) IN GENERAL.—Section 7(a) of the Federal De-  
 16 posit Insurance Act (12 U.S.C. 1817(a)) is amended by  
 17 inserting after paragraph (11) (as added by section 606  
 18 of this title) the following new paragraph:

19 “(12) SHORT FORM REPORTS OF CONDITION  
 20 FOR COMMUNITY BANKS.—

21 “(A) IN GENERAL.—With respect to re-  
 22 ports of condition required under paragraph (3)  
 23 for each calendar quarter, an insured depository  
 24 institution described in subparagraphs (A), (B),  
 25 (C), and (D) of section 10(d)(4) may submit a

1 short form of any such report of condition in 2  
2 nonsequential quarters of any calendar year.

3 “(B) SHORT FORM DEFINED.—The term  
4 ‘short form’, when used in connection with any  
5 report of condition required under paragraph  
6 (3), means a report of condition in a format es-  
7 tablished by the appropriate Federal banking  
8 agency, after notice and opportunity for com-  
9 ment, that—

10 “(i) is significantly and materially less  
11 burdensome for the insured depository in-  
12 stitution to prepare than the format of the  
13 report of condition required under para-  
14 graph (3); and

15 “(ii) provides sufficient material infor-  
16 mation for the appropriate Federal bank-  
17 ing agency to assure the maintenance of  
18 the safe and sound condition of the deposi-  
19 tory institution and safe and sound prac-  
20 tices.”.

21 (b) REGULATIONS.—Any regulation required to carry  
22 out the amendment made by subsection (a) shall be pub-  
23 lished in final form before the end of the 6-month period  
24 beginning on the date of the enactment of this Act.

1 **SEC. 609. CLARIFICATION OF EXTENT OF SUSPENSION, RE-**  
2 **MOVAL, AND PROHIBITION AUTHORITY OF**  
3 **FEDERAL BANKING AGENCIES IN CASES OF**  
4 **CERTAIN CRIMES BY INSTITUTION-AFFILI-**  
5 **ATED PARTIES.**

6 (a) INSURED DEPOSITORY INSTITUTIONS.—

7 (1) IN GENERAL.—Section 8(g)(1) of the Fed-  
8 eral Deposit Insurance Act (12 U.S.C. 1818(g)(1))  
9 is amended—

10 (A) in subparagraph (A)—

11 (i) by striking “is charged in any in-  
12 formation, indictment, or complaint, with  
13 the commission of or participation in” and  
14 inserting “is the subject of any informa-  
15 tion, indictment, or complaint, involving  
16 the commission of or participation in”;

17 (ii) by striking “may pose a threat to  
18 the interests of the depository institution’s  
19 depositors or may threaten to impair pub-  
20 lic confidence in the depository institu-  
21 tion,” and insert “posed, poses, or may  
22 pose a threat to the interests of the deposi-  
23 tors of, or threatened, threatens, or may  
24 threaten to impair public confidence in,  
25 any relevant depository institution (as de-  
26 fined in subparagraph (E)),”; and

1 (iii) by striking “affairs of the deposi-  
2 tory institution” and inserting “affairs of  
3 any depository institution”;

4 (B) in subparagraph (B)(i), by striking  
5 “the depository institution” and inserting “any  
6 depository institution that the subject of the no-  
7 tice is affiliated with at the time the notice is  
8 issued”;

9 (C) in subparagraph (C)(i)—

10 (i) by striking “may pose a threat to  
11 the interests of the depository institution’s  
12 depositors or may threaten to impair pub-  
13 lic confidence in the depository institu-  
14 tion,” and insert “posed, poses, or may  
15 pose a threat to the interests of the deposi-  
16 tors of, or threatened, threatens, or may  
17 threaten to impair public confidence in,  
18 and relevant depository institution (as de-  
19 fined in subparagraph (E)),”; and

20 (ii) by striking “affairs of the deposi-  
21 tory institution” and inserting “affairs of  
22 any depository institution”;

23 (D) in subparagraph (C)(ii), by striking  
24 “affairs of the depository institution” and in-  
25 serting “affairs of any depository institution”;



1 (E) in subparagraph (D)(i), by striking  
 2 “the depository institution” and inserting “any  
 3 depository institution that the subject of the  
 4 order is affiliated with at the time the order is  
 5 issued”; and

6 (F) by adding at the end the following new  
 7 subparagraph:

8 “(E) RELEVANT DEPOSITORY INSTITU-  
 9 TION.—For purposes of this subsection, the  
 10 term ‘relevant depository institution’ means any  
 11 depository institution of which the party is or  
 12 was an institution-affiliated party at the time—

13 “(i) the information, indictment or  
 14 complaint described in subparagraph (A)  
 15 was issued; or

16 “(ii) the notice is issued under sub-  
 17 paragraph (A) or the order is issued under  
 18 subparagraph (C)(i).”.

19 (2) CLERICAL AMENDMENT.—The heading for  
 20 section 8(g) of the Federal Deposit Insurance Act  
 21 (12 U.S.C. 1818(g)) is amended to read as follows:

22 “(g) SUSPENSION, REMOVAL, AND PROHIBITION  
 23 FROM PARTICIPATION ORDERS IN THE CASE OF CERTAIN  
 24 CRIMINAL OFFENSES.—”.

25 (b) INSURED CREDIT UNIONS.—

1           (1) IN GENERAL.—Section 206(i)(1) of the  
2       Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is  
3       amended—

4           (A) in subparagraph (A), by striking “the  
5       credit union” each place such term appears and  
6       inserting “any credit union”;

7           (B) in subparagraph (B)(i), by inserting  
8       “of which the subject of the order is, or most  
9       recently was, an institution-affiliated party” be-  
10      fore the period at the end;

11          (C) in subparagraph (C)—

12           (i) by striking “the credit union” each  
13          place such term appears and inserting  
14          “any credit union”; and

15           (ii) by striking “the credit union’s”  
16          and inserting “any credit union’s”;

17          (D) in subparagraph (D)(i), by striking  
18          “upon such credit union” and inserting “upon  
19          the credit union of which the subject of the  
20          order is, or most recently was, an institution-af-  
21          filiated party”; and

22          (E) by adding at the end the following new  
23          subparagraph:

24           “(E) CONTINUATION OF AUTHORITY.—The  
25          Board may issue an order under this paragraph

1 with respect to an individual who is an institu-  
 2 tion-affiliated party at a credit union at the  
 3 time of an offense described in subparagraph  
 4 (A) without regard to—

5 “(i) whether such individual is an in-  
 6 stitution-affiliated party at any credit  
 7 union at the time the order is considered  
 8 or issued by the Board; or

9 “(ii) whether the credit union at  
 10 which the individual was an institution-af-  
 11 filiated party at the time of the offense re-  
 12 mains in existence at the time the order is  
 13 considered or issued by the Board.”.

14 (2) CLERICAL AMENDMENT.—Section 206(i) of  
 15 the Federal Credit Union Act (12 U.S.C. 1786(i)) is  
 16 amended by striking “(i)” at the beginning and in-  
 17 serting the following new subsection heading:

18 “(i) SUSPENSION, REMOVAL, AND PROHIBITION  
 19 FROM PARTICIPATION ORDERS IN THE CASE OF CERTAIN  
 20 CRIMINAL OFFENSES.—”.

21 **SEC. 610. STREAMLINING DEPOSITORY INSTITUTION MERG-**  
 22 **ER APPLICATION REQUIREMENTS.**

23 (a) IN GENERAL.—Paragraph (4) of section 18(c) of  
 24 the Federal Deposit Insurance Act (12 U.S.C. 1828(c))  
 25 is amended to read as follows:

1 “(4) REPORTS ON COMPETITIVE FACTORS.—

2 “(A) REQUEST FOR REPORT.—In the in-  
3 terests of uniform standards and subject to  
4 subparagraph (B), the responsible agency shall,  
5 before acting on any application for approval of  
6 a merger transaction—

7 “(i) request a report on the competi-  
8 tive factors involved from the Attorney  
9 General; and

10 “(ii) provide a copy of the request to  
11 the Corporation (when the Corporation is  
12 not the responsible agency).

13 “(B) CONCURRENT CONSIDERATION.—The  
14 responsible agency shall not be required to  
15 make a request under subparagraph (A) before  
16 acting on an application for approval of a merg-  
17 er transaction if—

18 “(i) the agency finds that it must act  
19 immediately in order to prevent the prob-  
20 able failure of a depository institution in-  
21 volved in the transaction; or

22 “(ii) the transaction consists of a  
23 merger between an insured depository in-  
24 stitution and 1 or more affiliates of the de-  
25 pository institution.

“(C) FURNISHING OF REPORT.—The report requested under subparagraph (A) shall be furnished by the Attorney General to the responsible agency—

“(i) not more than 30 calendar days after the date on which the Attorney General received the request; or

“(ii) not more than 10 calendar days after such date, if the requesting agency advises the Attorney General that an emergency exists requiring expeditious action.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—

Section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended—

(1) in the second sentence by striking “banks or savings associations involved” and inserting the following: “insured depository institutions involved, or if the proposed merger transaction is solely between an insured depository institution and 1 or more of affiliates of the depository institution,” and

(2) by striking the penultimate sentence and inserting the following: “If the agency has advised the Attorney General under paragraph (4)(C)(ii) of the existence of an emergency requiring expeditious action and has requested a report on the competitive

1 factors within 10 days, the transaction may not be  
 2 consummated before the fifth calendar day after the  
 3 date of approval by the agency.”.

4 **SEC. 611. INCLUSION OF DIRECTOR OF THE OFFICE OF**  
 5 **THRIFT SUPERVISION IN LIST OF BANKING**  
 6 **AGENCIES REGARDING INSURANCE CUS-**  
 7 **TOMER PROTECTION REGULATIONS.**

8 Section 47(g)(2)(B)(i) of the Federal Deposit Insur-  
 9 ance Act (12 U.S.C. 1831x(g)(2)(B)(i)) is amended by in-  
 10 serting “the Director of the Office of Thrift Supervision,”  
 11 after “Comptroller of the Currency,”.

12 **SEC. 612. PROTECTION OF CONFIDENTIAL INFORMATION**  
 13 **RECEIVED BY FEDERAL BANKING REGU-**  
 14 **LATORS FROM FOREIGN BANKING SUPER-**  
 15 **VISORS.**

16 Section 15 of the International Banking Act of 1978  
 17 (12 U.S.C. 3109) is amended by adding at the end the  
 18 following new subsection:

19 “(c) CONFIDENTIAL INFORMATION RECEIVED FROM  
 20 FOREIGN SUPERVISORS.—

21 “(1) IN GENERAL.—Except as provided in para-  
 22 graph (3), a Federal banking agency shall not be  
 23 compelled to disclose information received from a  
 24 foreign regulatory or supervisory authority if—

1           “(A) the Federal banking agency deter-  
2           mines that the foreign regulatory or supervisory  
3           authority has, in good faith, determined and  
4           represented to such Federal banking agency  
5           that public disclosure of the information would  
6           violate the laws applicable to that foreign regu-  
7           latory or supervisory authority; and

8           “(B) the relevant Federal banking agency  
9           obtained such information pursuant to—

10           “(i) such procedures as the Federal  
11           banking agency may establish for use in  
12           connection with the administration and en-  
13           forcement of Federal banking laws; or

14           “(ii) a memorandum of understanding  
15           or other similar arrangement between the  
16           Federal banking agency and the foreign  
17           regulatory or supervisory authority.

18           “(2) TREATMENT UNDER TITLE 5, UNITED  
19           STATES CODE.—For purposes of section 552 of title  
20           5, United States Code, this subsection shall be treat-  
21           ed as a statute described in subsection (b)(3)(B) of  
22           such section.

23           “(3) SAVINGS PROVISION.—No provision of this  
24           section shall be construed as—

1           “(A) authorizing any Federal banking  
2           agency to withhold any information from any  
3           duly authorized committee of the House of Rep-  
4           resentatives or the Senate; or

5           “(B) preventing any Federal banking  
6           agency from complying with an order of a court  
7           of the United States in an action commenced by  
8           the United States or such agency.

9           “(4) FEDERAL BANKING AGENCY DEFINED.—  
10          For purposes of this subsection, the term ‘Federal  
11          banking agency’ means the Board, the Comptroller,  
12          the Federal Deposit Insurance Corporation, and the  
13          Director of the Office of Thrift Supervision.”.

14   **SEC. 613. PROHIBITION ON PARTICIPATION BY CONVICTED**  
15                   **INDIVIDUAL.**

16          (a) EXTENSION OF AUTOMATIC PROHIBITION.—Sec-  
17          tion 19 of the Federal Deposit Insurance Act (12 U.S.C.  
18          1829) is amended by inserting after subsection (c) (as  
19          added by section 603 of this title) the following new sub-  
20          sections:

21          “(d) BANK HOLDING COMPANIES.—Subsections (a)  
22          and (b) shall apply to any company (other than a foreign  
23          bank) that is a bank holding company and any organiza-  
24          tion organized and operated under section 25A of the Fed-  
25          eral Reserve Act or operating under section 25 of the Fed-



1 eral Reserve Act as if such bank holding company or orga-  
 2 nization were an insured depository institution, except  
 3 such subsections shall be applied for purposes of this sub-  
 4 section by substituting ‘Board of Governors of the Federal  
 5 Reserve System’ for ‘Corporation’ each place such term  
 6 appears in such subsections.

7 “(e) SAVINGS AND LOAN HOLDING COMPANIES.—  
 8 Subsections (a) and (b) shall apply to any savings and  
 9 loan holding company and any subsidiary (other than a  
 10 savings association) of a savings and loan holding com-  
 11 pany as if such savings and loan holding company or sub-  
 12 sidiary were an insured depository institution, except such  
 13 subsections shall be applied for purposes of this subsection  
 14 by substituting ‘Director of the Office of Thrift Super-  
 15 vision’ for ‘Corporation’ each place such term appears in  
 16 such subsections.”.

17 (b) ENHANCED DISCRETION TO REMOVE CONVICTED  
 18 INDIVIDUALS.—Section 8(e)(2)(A) of the Federal Deposit  
 19 Insurance Act (12 U.S.C. 1818(e)(2)(A)) is amended—

- 20 (1) by striking “or” at the end of clause (ii);
- 21 (2) by striking the comma at the end of clause
- 22 (iii) and inserting “; or”; and
- 23 (3) by adding at the end the following new
- 24 clause:

“(iv) an institution-affiliated party of a subsidiary (other than a bank) of a bank holding company has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such an offense,”.

**SEC. 614. CLARIFICATION THAT NOTICE AFTER SEPARATION FROM SERVICE MAY BE MADE BY AN ORDER.**

(a) IN GENERAL.—Section 8(i)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(3)) is amended by inserting “or order” after “notice” each place such term appears.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The heading for section 8(i)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(3)) is amended by inserting “OR ORDER” after “NOTICE”.

**SEC. 615. ENFORCEMENT AGAINST MISREPRESENTATIONS REGARDING FDIC DEPOSIT INSURANCE COVERAGE.**

(a) IN GENERAL.—Section 18(a) of the Federal Deposit Insurance Act (12 U.S.C. 1828(a)) is amended by adding at the end the following new paragraph:

1           “(4) FALSE ADVERTISING, MISUSE OF FDIC  
2           NAMES, AND MISREPRESENTATION TO INDICATE IN-  
3           SURED STATUS.—

4           “(A) PROHIBITION ON FALSE ADVER-  
5           TISING AND MISUSE OF FDIC NAMES.—No per-  
6           son may—

7                   “(i) use the terms ‘Federal Deposit’,  
8                   ‘Federal Deposit Insurance’, ‘Federal De-  
9                   posit Insurance Corporation’, any combina-  
10                  tion of such terms, or the abbreviation  
11                  ‘FDIC’ as part of the business name or  
12                  firm name of any person, including any  
13                  corporation, partnership, business trust,  
14                  association, or other business entity; or

15                  “(ii) use such terms or any other sign  
16                  or symbol as part of an advertisement, so-  
17                  licitation, or other document,

18                  to represent, suggest or imply that any deposit  
19                  liability, obligation, certificate or share is in-  
20                  sured or guaranteed by the Federal Deposit In-  
21                  surance Corporation, if such deposit liability,  
22                  obligation, certificate, or share is not insured or  
23                  guaranteed by the Corporation.

1           “(B) PROHIBITION ON MISREPRESENTA-  
2           TIONS OF INSURED STATUS.—No person may  
3           knowingly misrepresent—

4                   “(i) that any deposit liability, obliga-  
5                   tion, certificate, or share is federally in-  
6                   sured, if such deposit liability, obligation,  
7                   certificate, or share is not insured by the  
8                   Corporation; or

9                   “(ii) the extent to which or the man-  
10                  ner in which any deposit liability, obliga-  
11                  tion, certificate, or share is insured by the  
12                  Federal Deposit Insurance Corporation, if  
13                  such deposit liability, obligation, certificate,  
14                  or share is not insured by the Corporation  
15                  to the extent or in the manner represented.

16           “(C) AUTHORITY OF FDIC.—The Corpora-  
17           tion shall have—

18                   “(i) jurisdiction over any person that  
19                   violates this paragraph, or aids or abets  
20                   the violation of this paragraph; and

21                   “(ii) for purposes of enforcing the re-  
22                   quirements of this paragraph with regard  
23                   to any person—

1                   “(I) the authority of the Cor-  
2                   poration under section 10(c) to con-  
3                   duct investigations; and

4                   “(II) the enforcement authority  
5                   of the Corporation under subsections  
6                   (b), (c), (d) and (i) of section 8,

7                   as if such person were a state nonmember in-  
8                   sured bank.

9                   “(D) OTHER ACTIONS PRESERVED.—No  
10                  provision of this paragraph shall be construed  
11                  as barring any action otherwise available, under  
12                  the laws of the United States or any State, to  
13                  any Federal or State law enforcement agency or  
14                  individual.”.

15               (b) ENFORCEMENT ORDERS.—Section 8(c) of the  
16               Federal Deposit Insurance Act (12 U.S.C. 1818(c)) is  
17               amended by adding at the end the following new para-  
18               graph:

19               “(4) FALSE ADVERTISING OR MISUSE OF  
20               NAMES TO INDICATE INSURED STATUS.—

21               “(A) TEMPORARY ORDER.—

22               “(i) IN GENERAL.—If a notice of  
23               charges served under subsection (b)(1) of  
24               this section specifies on the basis of par-  
25               ticular facts that any person is engaged in

1           conduct described in section 18(a)(4), the  
2           Corporation may issue a temporary order  
3           requiring—

4                   “(I) the immediate cessation of  
5                   any activity or practice described,  
6                   which gave rise to the notice of  
7                   charges; and

8                   “(II) affirmative action to pre-  
9                   vent any further, or to remedy any ex-  
10                  isting, violation.

11                  “(ii) EFFECT OF ORDER.—Any tem-  
12                  porary order issued under this subpara-  
13                  graph shall take effect upon service.

14                  “(B) EFFECTIVE PERIOD OF TEMPORARY  
15                  ORDER.—A temporary order issued under sub-  
16                  paragraph (A) shall remain effective and en-  
17                  forceable, pending the completion of an admin-  
18                  istrative proceeding pursuant to subsection  
19                  (b)(1) in connection with the notice of  
20                  charges—

21                   “(i) until such time as the Corpora-  
22                   tion shall dismiss the charges specified in  
23                   such notice; or

1                   “(ii) if a cease-and-desist order is  
2                   issued against such person, until the effec-  
3                   tive date of such order.

4                   “(C) CIVIL MONEY PENALTIES.—Violations  
5                   of section 18(a)(4) shall be subject to civil  
6                   money penalties as set forth in subsection (i) in  
7                   an amount not to exceed \$1,000,000 for each  
8                   day during which the violation occurs or con-  
9                   tinues.”.

10                  (c) TECHNICAL AND CONFORMING AMENDMENTS.—

11                   (1) Section 18(a)(3) of the Federal Deposit In-  
12                   surance Act (12 U.S.C. 1828(a)) is amended—

13                   (A) in the 1st sentence by striking “of this  
14                   subsection” and inserting “of paragraphs (1)  
15                   and (2)”;

16                   (B) by striking the 2nd sentence; and

17                   (C) in the 3rd sentence, by striking “of  
18                   this subsection” and inserting “of paragraphs  
19                   (1) and (2)”.

20                   (2) The heading for subsection (a) of section 18  
21                   of the Federal Deposit Insurance Act (12 U.S.C.  
22                   1828(a)) is amended by striking “INSURANCE  
23                   LOGO.—” and inserting “REPRESENTATIONS OF  
24                   DEPOSIT INSURANCE.—”.

1 **SEC. 616. CHANGES REQUIRED TO SMALL BANK HOLDING**  
2 **COMPANY POLICY STATEMENT ON ASSESS-**  
3 **MENT OF FINANCIAL AND MANAGERIAL FAC-**  
4 **TORS.**

5 (a) SMALL BANK HOLDING COMPANY POLICY  
6 STATEMENT ON ASSESSMENT OF FINANCIAL AND MANA-  
7 GERAL FACTORS.—

8 (1) IN GENERAL.—Before the end of the 6-  
9 month period beginning on the date of the enact-  
10 ment of this Act, the Board of Governors of the  
11 Federal Reserve System shall publish in the Federal  
12 Register proposed revisions to the Small Bank Hold-  
13 ing Company Policy Statement on Assessment of Fi-  
14 nancial and Managerial Factors (12 C.F.R. part  
15 225—appendix C) that provide that the policy shall  
16 apply to a bank holding company which has pro-  
17 forma consolidated assets of less than  
18 \$1,000,000,000 and that—

19 (A) is not engaged in any nonbanking ac-  
20 tivities involving significant leverage; and

21 (B) does not have a significant amount of  
22 outstanding debt that is held by the general  
23 public.

24 (2) ADJUSTMENT OF AMOUNT.—The Board of  
25 Governors of the Federal Reserve System shall an-  
26 nually adjust the dollar amount referred to in para-



1 graph (1) in the Small Bank Holding Company Pol-  
2 icy Statement on Assessment of Financial and Man-  
3 agerial Factors by an amount equal to the percent-  
4 age increase, for the most recent year, in total assets  
5 held by all insured depository institutions, as deter-  
6 mined by the Board.

7 (b) INCREASE IN DEBT-TO-EQUITY RATIO OF SMALL  
8 BANK HOLDING COMPANY.—Before the end of the 6-  
9 month period beginning on the date of the enactment of  
10 this Act, the Board of Governors of the Federal Reserve  
11 System shall publish in the Federal Register proposed re-  
12 visions to the Small Bank Holding Company Policy State-  
13 ment on Assessment of Financial and Managerial Factors  
14 (12 C.F.R. part 225—appendix C) such that the debt-to-  
15 equity ratio allowable for a small bank holding company  
16 in order to remain eligible to pay a corporate dividend and  
17 to remain eligible for expedited processing procedures  
18 under Regulation Y of the Board of Governors of the Fed-  
19 eral Reserve System would increase from 1:1 to 3:1.

20 **SEC. 617. EXCEPTION TO ANNUAL PRIVACY NOTICE RE-**  
21 **QUIREMENT UNDER THE GRAMM-LEACH-BLI-**  
22 **LEY ACT.**

23 Section 503 of the Gramm-Leach-Bliley Act (15  
24 U.S.C. 6803) is amended by adding the following new sub-  
25 sections:

1       “(c) EXCEPTION TO ANNUAL NOTICE REQUIRE-  
2     MENT.—A financial institution that—

3               “(1) provides nonpublic personal information  
4       only in accordance with the provisions of subsection  
5       (b)(2) or (e) of section 502 or regulations prescribed  
6       under section 504(b);

7               “(2) does not share information with affiliates  
8       under section 603(d)(2)(A) of the Fair Credit Re-  
9       porting Act; and

10              “(3) has not changed its policies and practices  
11       with regard to disclosing nonpublic personal infor-  
12       mation from the policies and practices that were dis-  
13       closed in the most recent disclosure sent to con-  
14       sumers in accordance with this subsection,  
15     shall not be required to provide an annual disclosure under  
16     this subsection until such time as the financial institution  
17     fails to comply with any criteria described in paragraph  
18     (1), (2), or (3).

19       “(d) EXCEPTION TO NOTICE REQUIREMENT.—A fi-  
20     nancial institution shall not be required to provide any dis-  
21     closure under this section if—

22              “(1) the financial institution is licensed by a  
23       State and is subject to existing regulation of con-  
24       sumer confidentiality that prohibits disclosure of  
25       nonpublic personal information without knowing and

1       expressed consent of the consumer in the form of  
2       laws, rules, or regulation of professional conduct or  
3       ethics promulgated either by the court of highest ap-  
4       pellate authority or by the principal legislative body  
5       or regulatory agency or body of any State of the  
6       United States, the District of Columbia, any terri-  
7       tory of the United States, Puerto Rico, Guam,  
8       American Samoa, the Trust Territory of the Pacific  
9       Islands, the Virgin Islands, or the Northern Mariana  
10      Islands; or

11           “(2) the financial institution is licensed by a  
12      State and becomes subject to future regulation of  
13      consumer confidentiality that prohibits disclosure of  
14      nonpublic personal information without knowing and  
15      expressed consent of the consumer in the form of  
16      laws, rules, or regulation of professional conduct or  
17      ethics promulgated either by the court of highest ap-  
18      pellate authority or by the principal legislative body  
19      or regulatory agency or body of any State of the  
20      United States, the District of Columbia, any terri-  
21      tory of the United States, Puerto Rico, Guam,  
22      American Samoa, the Trust Territory of the Pacific  
23      Islands, the Virgin Islands, or the Northern Mariana  
24      Islands.”.

1 **SEC. 618. BIENNIAL REPORTS ON THE STATUS OF AGENCY**  
2 **EMPLOYMENT OF MINORITIES AND WOMEN.**

3 (a) IN GENERAL.—Before December 31, 2005, and  
4 the end of each 2-year period beginning after such date,  
5 each Federal banking agency shall submit a report to the  
6 Congress on the status of the employment by the agency  
7 of minority individuals and women.

8 (b) FACTORS TO BE INCLUDED.—The report shall  
9 include a detailed assessment of each of the following:

10 (1) The extent of hiring of minority individuals  
11 and women by the agency as of the time the report  
12 is prepared.

13 (2) The successes achieved and challenges faced  
14 by the agency in operating minority and women out-  
15 reach programs.

16 (3) Challenges the agency may face in finding  
17 qualified minority individual and women applicants.

18 (4) Such other information, findings, and con-  
19 clusions, and recommendations for legislative or  
20 agency action, as the agency may determine to be  
21 appropriate to include in the report.

22 (c) DEFINITIONS.—For purposes of this section, the  
23 following definitions shall apply:

24 (1) FEDERAL BANKING AGENCY.—The term  
25 “Federal banking agency”—

1 (A) has the same meaning as in section  
2 3(z) of the Federal Deposit Insurance Act; and

3 (B) includes the National Credit Union  
4 Administration.

5 (2) MINORITY.—The term “minority” has the  
6 same meaning as in section 1204(c)(3) of the Finan-  
7 cial Institutions Reform, Recovery, and Enforcement  
8 Act of 1989.

9 **SEC. 619. COORDINATION OF STATE EXAMINATION AU-**  
10 **THORITY.**

11 Section 10(h) of the Federal Deposit Insurance Act  
12 (12 U.S.C. 1820(h)) is amended to read as follows:

13 “(h) COORDINATION OF EXAMINATION AUTHOR-  
14 ITY.—

15 “(1) STATE BANK SUPERVISORS OF HOME AND  
16 HOST STATES.—

17 “(A) HOME STATE OF BANK.—The appro-  
18 priate State bank supervisor of the home State  
19 of an insured State bank has authority to ex-  
20 amine and supervise the bank.

21 “(B) HOST STATE BRANCHES.—The State  
22 bank supervisor of the home State of an in-  
23 sured State bank and any State bank super-  
24 visor of an appropriate host State shall exercise  
25 their respective authority to supervise and ex-

1           amine the branches of the bank in a host State  
2           in accordance with the terms of any applicable  
3           cooperative agreement between the home State  
4           bank supervisor and the State bank supervisor  
5           of the relevant host State.

6           “(C) SUPERVISORY FEES.—Except as ex-  
7           pressly provided in a cooperative agreement be-  
8           tween the State bank supervisors of the home  
9           State and any host State of an insured State  
10          bank, only the State bank supervisor of the  
11          home State of an insured State bank may levy  
12          or charge State supervisory fees on the bank.

13          “(2) HOST STATE EXAMINATION.—

14          “(A) IN GENERAL.—With respect to a  
15          branch operated in a host State by an out-of-  
16          State insured State bank that resulted from an  
17          interstate merger transaction approved under  
18          section 44 or that was established in such State  
19          pursuant to section 5155(g) of the Revised  
20          Statutes, the third undesignated paragraph of  
21          section 9 of the Federal Reserve Act or section  
22          18(d)(4) of this Act, the appropriate State bank  
23          supervisor of such host State may—

24                  “(i) with written notice to the State  
25                  bank supervisor of the bank’s home State

1 and subject to the terms of any applicable  
2 cooperative agreement with the State bank  
3 supervisor of such home State, examine  
4 such branch for the purpose of determining  
5 compliance with host State laws that are  
6 applicable pursuant to section 24(j) of this  
7 Act, including those that govern commu-  
8 nity reinvestment, fair lending, and con-  
9 sumer protection; and

10 “(ii) if expressly permitted under and  
11 subject to the terms of a cooperative agree-  
12 ment with the State bank supervisor of the  
13 bank’s home State or if such out-of-State  
14 insured State bank has been determined to  
15 be in a troubled condition by either the  
16 State bank supervisor of the bank’s home  
17 State or the bank’s appropriate Federal  
18 banking agency, participate in the exam-  
19 ination of the bank by the State bank su-  
20 pervisor of the bank’s home State to ascer-  
21 tain that the activities of the branch in  
22 such host State are not conducted in an  
23 unsafe or unsound manner.

24 “(B) NOTICE OF DETERMINATION.—

1                   “(i) IN GENERAL.—The State bank  
2                   supervisor of the home State of an insured  
3                   State bank should notify the State bank  
4                   supervisor of each host State of the bank  
5                   if there has been a final determination that  
6                   the bank is in a troubled condition.

7                   “(ii) TIMING OF NOTICE.—The State  
8                   bank supervisor of the home State of an  
9                   insured State bank should provide notice  
10                  under clause (i) as soon as reasonably pos-  
11                  sible but in all cases within 15 business  
12                  days after the State bank supervisor has  
13                  made such final determination or has re-  
14                  ceived written notification of such final de-  
15                  termination.

16                  “(3) HOST STATE ENFORCEMENT.—If the State  
17                  bank supervisor of a host State determines that a  
18                  branch of an out-of-State State insured State bank  
19                  is violating any law of the host State that is applica-  
20                  ble to such branch pursuant to section 24(j) of this  
21                  Act, including a law that governs community rein-  
22                  vestment, fair lending, or consumer protection, the  
23                  State bank supervisor of the host State or, to the ex-  
24                  tent authorized by the law of the host State, a host  
25                  State law enforcement officer may, with written no-



1       tice to the State bank supervisor of the bank's home  
2       State and subject to the terms of any applicable co-  
3       operative agreement with the State bank supervisor  
4       of the bank's home State, undertake such enforce-  
5       ment actions and proceedings as would be permitted  
6       under the law of the host State as if the branch  
7       were a bank chartered by that host State.

8               “(4) COOPERATIVE AGREEMENT.—

9               “(A) IN GENERAL.—The State bank super-  
10       visors from 2 or more States may enter into co-  
11       operative agreements to facilitate State regu-  
12       latory supervision of State banks, including co-  
13       operative agreements relating to the coordina-  
14       tion of examinations and joint participation in  
15       examinations. For purposes of this subsection  
16       (h), the term ‘cooperative agreement’ means a  
17       written agreement that is signed by the home  
18       State bank supervisor and host State bank su-  
19       pervisor to facilitate State regulatory super-  
20       vision of State banks and includes nationwide  
21       or multi-state cooperative agreements and coop-  
22       erative agreements solely between the home  
23       State and host State.

24               “(B) RULE OF CONSTRUCTION.—Except  
25       for State bank supervisors, no provision of this

1 subsection relating to such cooperative agree-  
2 ments shall be construed as limiting in any way  
3 the authority of home and host State law en-  
4 forcement officers, regulatory supervisors, or  
5 other officials that have not signed such cooper-  
6 ative agreements to enforce host State laws that  
7 are applicable to a branch of an out-of-State in-  
8 sured State bank located in the host State pur-  
9 suant to section 24(j) of this Act.

10 “(5) FEDERAL REGULATORY AUTHORITY.—No  
11 provision of this subsection shall be construed as  
12 limiting in any way the authority of any Federal  
13 banking agency.

14 “(6) STATE TAXATION AUTHORITY NOT AF-  
15 FECTED.—No provision of this subsection (h) shall  
16 be construed as affecting the authority of any State  
17 or political subdivision of any State to adopt, apply,  
18 or administer any tax or method of taxation to any  
19 bank, bank holding company, or foreign bank, or  
20 any affiliate of any bank, bank holding company, or  
21 foreign bank, to the extent such tax or tax method  
22 is otherwise permissible by or under the Constitution  
23 of the United States or other Federal law.

24 “(7) DEFINITIONS.—For purpose of this sec-  
25 tion, the following definition shall apply:

1           “(A) HOST STATE, HOME STATE, OUT-OF-  
2 STATE BANK.—The terms ‘host State’, ‘home  
3 State’, and ‘out-of-State bank’ have the same  
4 meanings as in section 44(g).

5           “(B) STATE SUPERVISORY FEES.—The  
6 term ‘State supervisory fees’ means assess-  
7 ments, examination fees, branch fees, license  
8 fees, and all other fees that are levied or  
9 charged by a State bank supervisor directly  
10 upon an insured State bank or upon branches  
11 of an insured State bank.

12           “(C) TROUBLED CONDITION.—Solely for  
13 purposes of subparagraph (2)(B) of this sub-  
14 section (h), an insured State bank has been de-  
15 termined to be in ‘troubled condition’ if the  
16 bank—

17                   “(i) has a composite rating, as deter-  
18 mined in its most recent report of exam-  
19 ination, of 4 or 5 under the Uniform Fi-  
20 nancial Institutions Ratings System  
21 (UFIRS); or

22                   “(ii) is subject to a proceeding initi-  
23 ated by the Corporation for termination or  
24 suspension of deposit insurance; or

1           “(iii) is subject to a proceeding initi-  
 2           ated by the State bank supervisor of the  
 3           bank’s home State to vacate, revoke, or  
 4           terminate the charter of the bank, or to  
 5           liquidate the bank, or to appoint a receiver  
 6           for the bank.

7           “(D) FINAL DETERMINATION.—For the  
 8           purposes of paragraph (2)(B), the term ‘final  
 9           determination’ means the transmittal of a re-  
 10          port of examination to the bank or transmittal  
 11          of official notice of proceedings to the bank.”.

12 **SEC. 620. NONWAIVER OF PRIVILEGES.**

13          (a) INSURED DEPOSITORY INSTITUTIONS.—Section  
 14          18 of the Federal Deposit Insurance Act (12 U.S.C. 1828)  
 15          is amended by adding at the end the following new sub-  
 16          section:

17          “(x) PRIVILEGES NOT AFFECTED BY DISCLOSURE TO  
 18          BANKING AGENCY OR SUPERVISOR.—

19                 “(1) IN GENERAL.—The submission by any per-  
 20          son of any information to any Federal banking agen-  
 21          cy, State bank supervisor, or foreign banking au-  
 22          thority for any purpose in the course of any super-  
 23          visory or regulatory process of such agency, super-  
 24          visor, or authority shall not be construed as waiving,  
 25          destroying, or otherwise affecting any privilege such

1 person may claim with respect to such information  
2 under Federal or State law as to any person or enti-  
3 ty other than such agency, supervisor, or authority.

4 “(2) RULE OF CONSTRUCTION.—No provision  
5 of paragraph (1) may be construed as implying or  
6 establishing that—

7 “(A) any person waives any privilege appli-  
8 cable to information that is submitted or trans-  
9 ferred under any circumstance to which para-  
10 graph (1) does not apply; or

11 “(B) any person would waive any privilege  
12 applicable to any information by submitting the  
13 information to any Federal banking agency,  
14 State bank supervisor, or foreign banking au-  
15 thority, but for this subsection.”.

16 (b) INSURED CREDIT UNIONS.—Section 205 of the  
17 Federal Credit Union Act (12 U.S.C.1785) is amended by  
18 adding at the end the following new subsection:

19 “(j) PRIVILEGES NOT AFFECTED BY DISCLOSURE TO  
20 BANKING AGENCY OR SUPERVISOR.—

21 “(1) IN GENERAL.—The submission by any per-  
22 son of any information to the Administration, any  
23 State credit union supervisor, or foreign banking au-  
24 thority for any purpose in the course of any super-  
25 visory or regulatory process of such Board, super-

1 visor, or authority shall not be construed as waiving,  
 2 destroying, or otherwise affecting any privilege such  
 3 person may claim with respect to such information  
 4 under Federal or State law as to any person or enti-  
 5 ty other than such Board, supervisor, or authority.

6 “(2) RULE OF CONSTRUCTION.—No provision  
 7 of paragraph (1) may be construed as implying or  
 8 establishing that—

9 “(A) any person waives any privilege appli-  
 10 cable to information that is submitted or trans-  
 11 ferred under any circumstance to which para-  
 12 graph (1) does not apply; or

13 “(B) any person would waive any privilege  
 14 applicable to any information by submitting the  
 15 information to the Administration, any State  
 16 credit union supervisor, or foreign banking au-  
 17 thority, but for this subsection.”.

18 **SEC. 621. RIGHT TO FINANCIAL PRIVACY ACT OF 1978**

19 **AMENDMENT.**

20 Paragraph (1) of section 1101 of the Right to Finan-  
 21 cial Privacy Act of 1978 (12 U.S.C. 3401) is amended  
 22 by inserting “(including any lender who advances funds  
 23 on pledges of personal property)” after “consumer finance  
 24 institution”.

1 **SEC. 622. DEPUTY DIRECTOR; SUCCESSION AUTHORITY**  
2 **FOR DIRECTOR OF THE OFFICE OF THRIFT**  
3 **SUPERVISION.**

4 (a) ESTABLISHMENT OF POSITION OF DEPUTY DI-  
5 RECTOR.—Section 3(c)(5) of the Home Owners' Loan Act  
6 (12 U.S.C. 1462a(c)(5)) is amended to read as follows:

7 “(5) DEPUTY DIRECTOR.—

8 “(A) IN GENERAL.—The Secretary of the  
9 Treasury shall appoint a Deputy Director and  
10 may appoint up to 3 additional Deputy Direc-  
11 tors.

12 “(B) FIRST DEPUTY DIRECTOR.—If the  
13 Secretary of the Treasury appoints more than  
14 1 Deputy Director of the Office, the Secretary  
15 shall designate one such appointee as the First  
16 Deputy Director.

17 “(C) DUTIES.—Each Deputy Director ap-  
18 pointed under this paragraph shall take an oath  
19 of office and perform such duties as the Direc-  
20 tor shall direct.

21 “(D) COMPENSATION AND BENEFITS.—  
22 The Director shall fix the compensation and  
23 benefits for each Deputy Director in accordance  
24 with this Act.”.

1       (b) SERVICE OF DEPUTY DIRECTOR AS ACTING DI-  
2 RECTOR.—Section 3(c)(3) of the Home Owners’ Loan Act  
3 (12 U.S.C. 1462a(c)(3)) is amended—

4           (1) by striking “VACANCY.—A vacancy in the  
5 position of Director” and inserting “VACANCY.—

6           “(A) IN GENERAL.—A vacancy in the posi-  
7 tion of Director”; and

8           (2) by adding at the end the following new sub-  
9 paragraphs:

10           “(B) ACTING DIRECTOR.—

11           “(i) IN GENERAL.—In the event of a  
12 vacancy in the position of Director or dur-  
13 ing the absence or disability of the Direc-  
14 tor, the Deputy Director shall serve as  
15 Acting Director.

16           “(ii) SUCCESSION IN CASE OF 2 OR  
17 MORE DEPUTY DIRECTORS.—If there are 2  
18 or more Deputy Directors serving at the  
19 time a vacancy in the position of Director  
20 occurs or the absence or disability of the  
21 Director commences, the First Deputy Di-  
22 rector shall serve as Acting Director under  
23 clause (i) followed by such other Deputy  
24 Directors under any order of succession  
25 the Director may establish.



1 “(iii) AUTHORITY OF ACTING DIREC-  
2 TOR.—Any Deputy Director, while serving  
3 as Acting Director under this subpara-  
4 graph, shall be vested with all authority,  
5 duties, and privileges of the Director under  
6 this Act and any other provision of Federal  
7 law.”.

8 **SEC. 623. LIMITATION ON SCOPE OF NEW AGENCY GUIDE-**  
9 **LINES.**

10 (a) IN GENERAL.—The provisions of the multi-agen-  
11 cy guidance Numbered 2003–1 issued by the Comptroller  
12 of the Currency, the Board of Governors of the Federal  
13 Reserve System, the Federal Deposit Insurance Corpora-  
14 tion, and the Director of the Office of Thrift Supervision  
15 that relate to minimum credit card payments and negative  
16 amortization—

17 (1) shall only apply to new credit card accounts  
18 established by a creditor for a consumer after the  
19 date of the enactment of this Act under an open end  
20 consumer credit plan; and

21 (2) shall not apply to any outstanding balance  
22 on any credit card account under an open end con-  
23 sumer credit plan as of such date of enactment.

24 (b) DEFINITIONS.—For purposes of this section, the  
25 terms “credit”, “credit card”, “creditor”, “consumer” and

1 “open end credit plan” have the same meanings as in sec-  
2 tion 103 of the Truth in Lending Act.

3 (c) SUNSET PROVISION.—This section shall not apply  
4 after the end of the 3-year period beginning on the date  
5 of the enactment of this Act .

## 6 **TITLE VII—“BSA” COMPLIANCE** 7 **BURDEN REDUCTION**

### 8 **SEC. 701. EXCEPTION FROM CURRENCY TRANSACTION RE-** 9 **PORTS FOR SEASONED CUSTOMERS.**

10 (a) FINDINGS.—The Congress finds as follows:

11 (1) The completion of and filing of currency  
12 transaction reports under section 5313 of title 31,  
13 United States Code, poses a compliance burden on  
14 the financial industry.

15 (2) Due to the nature of the transactions or the  
16 persons and entities conducting such transactions,  
17 certain such reports as currently filed do not appear  
18 to be relevant to the detection, deterrence, or inves-  
19 tigation of financial crimes, including money laun-  
20 dering and the financing of terrorism.

21 (3) However, the data contained in such reports  
22 can provide valuable context for the analysis of other  
23 data derived pursuant to subchapter II of chapter  
24 53 of title 31, United States Code, as well as inves-  
25 tigative data, which provides invaluable and indis-

1       pensable information supporting efforts to combat  
2       money laundering and other financial crimes.

3           (4) An exemption from the reporting require-  
4       ments for certain currency transactions that are of  
5       little or no value to ongoing efforts of law enforce-  
6       ment agencies, financial regulatory agencies, and the  
7       financial services industry to investigate, detect, or  
8       deter financial crimes would serve to balance the  
9       burden placed on members of the financial services  
10      industry with the compelling need to produce and  
11      provide meaningful information to policy-makers, fi-  
12      nancial regulators, law enforcement, and intelligence  
13      agencies.

14          (5) The Secretary of the Treasury has by regu-  
15      lation, and in accordance with section 5313 of title  
16      31, United States Code, implemented a process by  
17      which institutions may seek exemptions from filing  
18      certain currency transaction reports based on appro-  
19      priate circumstances; however, the existing exemp-  
20      tion process has not adequately balanced the burden  
21      on the financial industry with the Government's  
22      need for data to support its efforts in combating fi-  
23      nancial crime.

24          (6) The act of providing notice to the Secretary  
25      of the Treasury of designations of exemption pro-

1       vides meaningful information to law enforcement of-  
2       ficials on exempt customers and enables law enforce-  
3       ment to obtain account information through appro-  
4       priate legal process; the act of providing notice of  
5       designations of exemption complements other sec-  
6       tions of title 31, United States Code, whereby law  
7       enforcement can locate financial institutions with  
8       relevant records relating to a person of investigative  
9       interest, such as information requests made pursu-  
10      ant to regulations implementing section 314(a) of  
11      the USA PATRIOT Act of 2001.

12           (7) A designation of exemption has no effect on  
13      requirements for depository institutions to apply the  
14      full range of anti-money laundering controls as set  
15      forth in subchapter II of chapter 53 of title 31,  
16      United States Code, including the requirement to  
17      apply the customer identification program pursuant  
18      to Section 5326 of subchapter II of chapter 53 of  
19      title 31, United States Code, and the requirement to  
20      identify, monitor, and, if appropriate, report sus-  
21      picious activity in accordance with section 5318(g)  
22      of title 31, United States Code.

23           (8) The Federal banking agencies and the Fi-  
24      nancial Crimes Enforcement Network have recently  
25      provided guidance through the Federal Financial In-

stitutions Examination Council Bank Secrecy Act/  
Anti-Money Laundering Examination Manual on ap-  
plying appropriate levels of due diligence and identi-  
fying suspicious activity by the types of cash-inten-  
sive businesses that generally will be subject to ex-  
emption.

(b) SEASONED CUSTOMER EXEMPTION.—

(1) IN GENERAL.—Section 5313(e) of title 31,  
United States Code, is amended to read as follows:

“(e) QUALIFIED CUSTOMER EXEMPTION.—

“(1) IN GENERAL.—The Secretary of the  
Treasury shall prescribe regulations within 270 days  
of the enactment of the Financial Services Regu-  
latory Relief Act of 2005 that exempt any depository  
institution from filing a report pursuant to this sec-  
tion in a transaction for the payment, receipt, or  
transfer of United States coins or currency (or other  
monetary instruments the Secretary of the Treasury  
prescribes) with a qualified customer of the deposi-  
tory institution.

“(2) QUALIFIED CUSTOMER DEFINED.—For  
purposes of this section, the term ‘qualified cus-  
tomer’, with respect to a depository institution, has  
such meaning as the Secretary of the Treasury shall  
prescribe, which shall include any person that—

1           “(A) is incorporated or organized under  
2           the laws of the United States or any State, in-  
3           cluding a sole proprietorship, or is registered as  
4           and eligible to do business within the United  
5           States or a State;

6           “(B) has maintained a deposit account  
7           with the depository institution for at least 12  
8           months; and

9           “(C) has engaged, using such account, in  
10          multiple currency transactions that are subject  
11          to the reporting requirements of subsection (a).

12          “(3) REGULATIONS.—

13          “(A) IN GENERAL.—The Secretary of the  
14          Treasury shall prescribe regulations requiring a  
15          depository institution to file a 1-time notice of  
16          designation of exemption for each qualified cus-  
17          tomer of the depository institution.

18          “(B) FORM AND CONTENT OF EXEMPTION  
19          NOTICE.—The Secretary shall by regulation  
20          prescribe the form, manner, content, and timing  
21          of the qualified customer exemption notice; such  
22          notice shall include information sufficient to  
23          identify the qualified customer and its accounts.

24          “(C) AUTHORITY OF SECRETARY.—

1                   “(i) IN GENERAL.—The Secretary  
2                   may suspend, reject or revoke any qualified  
3                   customer exemption notice, in accordance  
4                   with criteria prescribed by the Secretary by  
5                   regulation.

6                   “(ii) CONDITIONS.—The Secretary  
7                   may establish conditions, in accordance  
8                   with criteria prescribed by regulation,  
9                   under which exempt qualified customers of  
10                  an insured depository institution that is  
11                  merged with or acquired by another in-  
12                  sured depository institution will continue  
13                  to be treated as designated exempt quali-  
14                  fied customers of the surviving or acquir-  
15                  ing institution.”.

16           (c) 3-YEAR REVIEW AND REPORT.—Before the end  
17 of the 3-year period beginning on the date of the enact-  
18 ment of this Act, the Secretary of the Treasury, in con-  
19 sultation with the Attorney General, the Secretary of the  
20 Department of Homeland Security, the Federal banking  
21 agencies, the banking industry, and such other persons as  
22 the Secretary deems appropriate, shall evaluate the oper-  
23 ations and effect of this provision and make recommenda-  
24 tions to Congress as to any legislative action with respect

1 to this provision as the Secretary may determine to be ap-  
2 propriate.

3 **SEC. 702. REDUCTION IN INCONSISTENCIES IN MONETARY**  
4 **TRANSACTION RECORDKEEPING AND RE-**  
5 **PORTING ENFORCEMENT AND EXAMINATION**  
6 **REQUIREMENTS.**

7 (a) SENSE OF THE CONGRESS.—It is the sense of the  
8 Congress that inconsistencies and redundancies among  
9 regulations implementing monetary transaction record-  
10 keeping and reporting enforcement programs under sec-  
11 tion 8 of the Federal Deposit Insurance Act, section  
12 206(q) of the Federal Credit Union Act, and chapter II  
13 of chapter 53 of title 31, United States Code by the Sec-  
14 retary of the Treasury and the Federal banking agen-  
15 cies—

16 (1) increase the difficulty depository institutions  
17 have in complying with congressional intent in cre-  
18 ating such enforcement programs,

19 (2) reduce the transparency and clarity of the  
20 regulatory regime;

21 (3) increase the potential for conflict among the  
22 various regulations in the future; and

23 (4) contribute to the perception that various  
24 agencies involved in the enforcement of the monetary



1 transaction recordkeeping and reporting require-  
2 ments apply such requirements inconsistently.

3 (b) AGENCY COORDINATION OF MONETARY TRANS-  
4 ACTION RECORDKEEPING AND REPORTING REQUIRE-  
5 MENTS.—

6 (1) ENFORCEMENT PROGRAMS.—

7 (A) FEDERAL DEPOSIT INSURANCE ACT.—

8 Section 8(s) of the Federal Deposit Insurance  
9 Act (12 U.S.C. 1818(s)) is amended by adding  
10 at the end the following new paragraph:

11 “(4) COORDINATION ON UNIFORM REQUIRE-  
12 MENTS.—In prescribing regulations under paragraph  
13 (1), the Federal banking agencies, acting through  
14 the Financial Institutions Examination Council,  
15 shall—

16 “(A) consult with each other, the National  
17 Credit Union Administration Board, and the  
18 Secretary of the Treasury; and

19 “(B) take such action as may be necessary  
20 to ensure that the requirements for procedures  
21 established pursuant to such regulations, and  
22 the examination standards for reviewing such  
23 procedures, are congruent and reasonably uni-  
24 form (taking into account differences in the

1 form and function of the institutions subject to  
2 such requirements).”.

3 (B) FEDERAL CREDIT UNION ACT.—Sec-  
4 tion 206(q) of the Federal Credit Union Act  
5 (12 U.S.C. 1786(q)) is amended by adding at  
6 the end the following new paragraph:

7 “(4) COORDINATION ON UNIFORM REQUIRE-  
8 MENTS.—In prescribing regulations under paragraph  
9 (1), the Board, acting through the Financial Institu-  
10 tions Examination Council, shall—

11 “(A) consult with the Federal banking  
12 agencies and the Secretary of the Treasury; and

13 “(B) take such action as may be necessary  
14 to ensure that the requirements for procedures  
15 established pursuant to such regulations, and  
16 the examination standards for reviewing such  
17 procedures, are congruent and reasonably uni-  
18 form (taking into account differences in the  
19 form and function of the institutions subject to  
20 such requirements).”.

21 (2) EXAMINATION STANDARDS AND DIS-  
22 PUTES.—Section 1006 of the Federal Financial In-  
23 stitutions Examination Council Act of 1978 (12  
24 U.S.C. 3305) is amended by adding at the end the  
25 following new subsection:

1       “(h) MONETARY TRANSACTION RECORDKEEPING  
2 AND REPORTING REQUIREMENTS.—The Council and the  
3 Secretary of the Treasury shall jointly establish—

4           “(1) uniform standards and principles applica-  
5 ble to the examination of financial institutions to en-  
6 sure compliance with the requirements of subchapter  
7 II of chapter 53, United States Code, sections 8(s)  
8 and 21 of the Federal Deposit Insurance Act, and  
9 section 206(q) of the Federal Credit Union Act; and

10          “(2) a clear policy statement on appropriate  
11 processes for resolving examiner-institution disagree-  
12 ments concerning the application of subchapter II of  
13 chapter 53, United States Code, sections 8(s) and  
14 21 of the Federal Deposit Insurance Act, and sec-  
15 tion 206(q) of the Federal Credit Union Act to fi-  
16 nancial institutions.”.

17          (3) EFFECTIVE DATE.—The Federal banking  
18 agencies, the National Credit Union Administration  
19 Board, the Financial Institutions Examination  
20 Council, and the Secretary of the Treasury shall  
21 commence the discussions and consultations required  
22 under the amendments made by this subsection as  
23 soon as practicable after the date of the enactment  
24 of this Act.

1       (c) REVIEW OF AND REPORT ON ADDITIONAL REGU-  
2       LATORY OR LEGISLATIVE CHANGES.—

3           (1) REVIEW REQUIRED.—Before the end of the  
4       6-month period beginning on the date of the enact-  
5       ment of this Act, the Secretary of the Treasury shall  
6       conduct a review of the potential inconsistencies in,  
7       or redundancies among, the regulations pertaining to  
8       the application of the requirements of subchapter II  
9       of chapter 53, United States Code, sections 8(s) and  
10      21 of the Federal Deposit Insurance Act, and sec-  
11      tion 206(q) of the Federal Credit Union Act to fi-  
12      nancial institutions.

13          (2) REPORT TO CONGRESS AND THE FINANCIAL  
14      INSTITUTIONS EXAMINATION COUNCIL.—Upon com-  
15      pletion of the review under paragraph (1), the Sec-  
16      retary of the Treasury shall promptly submit a re-  
17      port on the findings and conclusions of the Secretary  
18      with respect to the review to the Committee on Fi-  
19      nancial Services of the House of Representatives and  
20      the Committee on Banking, Housing, and Urban Af-  
21      fairs of the Senate, together with such recommenda-  
22      tions for legislative and administrative actions as the  
23      Secretary may determine to be appropriate, and  
24      shall transmit a copy of such report to the members  
25      of the Financial Institutions Examination Council.

1       (d) REFORM OF APPLICATION OF MONETARY TRANS-  
2 ACTION RECORDKEEPING AND REPORTING REQUIRE-  
3 MENTS TO FINANCIAL INSTITUTIONS.—Before the end of  
4 the 9-month period beginning on the date of the submis-  
5 sion of the report to Congress under subsection (c)(2), the  
6 Secretary of the Treasury shall prescribe regulations im-  
7 plementing appropriate changes to regulations within the  
8 jurisdiction of the Secretary to remedy redundancies or  
9 inconsistencies identified in the review by, and included  
10 in the recommendations of, the Secretary under subsection  
11 (c).

12 **SEC. 703. ADDITIONAL REFORMS RELATING TO MONETARY**  
13 **TRANSACTION AND RECORDKEEPING RE-**  
14 **QUIREMENTS APPLICABLE TO FINANCIAL IN-**  
15 **STITUTIONS.**

16       (a) NOTIFICATION OF OFFICERS AND DIRECTORS OF  
17 FINANCIAL INSTITUTIONS.—Before the end of the 6-  
18 month period beginning on the date of the enactment of  
19 this Act, the Secretary of the Treasury shall—

20           (1) review any regulation, guideline, or guid-  
21 ance of the Secretary, any Federal banking agency,  
22 or the National Credit Union Administration Board  
23 that serves as the basis for any requirement to pro-  
24 vide notice to any officer or director of a depository  
25 institution of any suspicious activity report sub-

1       mitted by the depository institution to the Secretary  
2       and any such agency or Board;

3           (2) modify or eliminate any such requirement of  
4       the Secretary that the Secretary determines is not  
5       necessary to achieve the purposes of section 5318(g)  
6       of title 31, United States Code; and

7           (3) make a recommendation to any Federal  
8       banking agency or the National Credit Union Ad-  
9       ministration Board to modify or eliminate any such  
10      requirement of such agency or Board that the Sec-  
11      retary determines is not necessary to achieve the  
12      purposes of section 5318(g) of title 31, United  
13      States Code.

14      (b) ELIMINATION OF UNNECESSARY VERIFICATION  
15      REQUIREMENTS APPLICABLE TO THE PURCHASE OF FI-  
16      NANCIAL INSTRUMENTS.—Before the end of the 9-month  
17      period beginning on the date of the enactment of this Act,  
18      the Secretary of the Treasury shall—

19           (1) review all verification of customer identity  
20      requirements as they relate to the purchases of mon-  
21      etary instruments by customers of depository institu-  
22      tions, including the regulations codified in section  
23      103.29(a)(ii) of title 31, Code of Federal Regula-  
24      tions; and

1           (2) modify or eliminate any customer identity  
2       requirement related to the purchases of monetary in-  
3       struments by customers of depository institutions  
4       codified in section 103.29(a)(ii) of title 31, Code of  
5       Federal Regulations, that the Secretary determines  
6       is unnecessary.

7       (c) ELIMINATION OF RECURRING FILINGS OF SUS-  
8       PICIOUS ACTIVITY REPORTS ON A SINGLE TRANS-  
9       ACTION.—Before the end of the 9-month period beginning  
10      on the date of the enactment of this Act, the Secretary  
11      of the Treasury, as appropriate, shall prescribe regula-  
12      tions, or issue other forms of guidance, that eliminate the  
13      need for depository institutions to file recurring suspicious  
14      activity reports on the same transaction unless there has  
15      been a subsequent change in any pattern of activity involv-  
16      ing any person who was connected with the transaction.

17      (d) ELECTRONIC ACKNOWLEDGEMENT OF CERTAIN  
18      ELECTRONIC FILINGS.—Before the end of the 1-year pe-  
19      riod beginning on the date of the enactment of this Act,  
20      the Director of the Financial Crimes Enforcement Net-  
21      work shall put into effect a system for promptly furnishing  
22      an electronic acknowledgement of receipt to any institu-  
23      tion that files a form with FinCEN under subchapter II  
24      of chapter 53 of title 31, United States Code, through the  
25      Network’s electronic filing system.

1 **SEC. 704. STUDY BY COMPTROLLER GENERAL.**

2 (a) STUDY REQUIRED.—The Comptroller General of  
3 the United States shall conduct a study on methods and  
4 practices which would—

5 (1) reduce the overall number of currency  
6 transaction reports filed with the Secretary of the  
7 Treasury under section 5313(a) of title 31, United  
8 States Code, while ensuring that the needs of the  
9 Secretary, the Financial Crimes Enforcement Net-  
10 work, law enforcement agencies, and financial insti-  
11 tution regulatory agencies continue to be met;

12 (2) improve financial institution utilization of  
13 the current exemption provisions; and

14 (3) mitigate the difficulties in the current im-  
15 plementation of such exemption provisions that limit  
16 the utility of the exemption process for financial in-  
17 stitutions.

18 (b) REPORT.—Before the end of the 6-month period  
19 beginning on the date of the enactment of this Act, the  
20 Comptroller General shall submit a report to the Com-  
21 mittee on Financial Services of the House of Representa-  
22 tives and the Committee on Banking, Housing, and Urban  
23 Affairs of the Senate on the findings and conclusions of  
24 the Comptroller General with respect to the study con-  
25 ducted under subsection (a) and such recommendations



1 for legislative and administrative action as the Comp-  
2 troller General may determine to be appropriate.

3 **SEC. 705. FEASIBILITY STUDY REQUIRED.**

4 (a) IN GENERAL.—For the purpose of simplifying,  
5 and increasing compliance with, the various recordkeeping  
6 and reporting requirements under subchapter II of chap-  
7 ter 53 of title 31, United States Code, chapter 2 of title  
8 I of Public Law 91—508, and section 21 of the Federal  
9 Deposit Insurance Act, and regulations prescribed under  
10 such provisions of law, the Secretary of the Treasury  
11 (hereafter in this section referred to as the “Secretary”)  
12 shall conduct a study on the feasibility of developing and  
13 implementing interfaces and templates for use in elec-  
14 tronic communications between financial institutions (as  
15 defined in section 5312 of title 31, United States Code)  
16 and the Secretary, the Financial Crimes Enforcement  
17 Network, and other Federal financial institution regu-  
18 latory agencies.

19 (b) FACTORS TO BE CONSIDERED.—In conducting  
20 the study required under subsection (a), the Secretary  
21 shall take into account—

22 (1) any procedures required to be maintained  
23 by financial institutions under regulations prescribed  
24 pursuant to section 5318(a)(2) of title 31 of the  
25 United States Code and the manner in which the

1 use of interfaces and templates which might be de-  
2 veloped could lessen the burden of complying with  
3 such procedures; and

4 (2) any exemptions prescribed by the Secretary  
5 under paragraph (5) or (6) of such section 5318(a)  
6 and the manner in which interfaces and templates  
7 which might be developed could be programmed to  
8 reflect any such exemption for a financial institu-  
9 tion, transaction, or class of transactions.

10 (c) PROTOTYPE AND REPORT REQUIRED.—

11 (1) IN GENERAL.—Before the end of the 1-year  
12 period beginning on the date of the enactment of  
13 this Act, the Secretary shall submit a report to the  
14 Congress containing a detailed description of the  
15 findings and conclusions of the Secretary in connec-  
16 tion with the study required under subsection (a),  
17 together with such recommendations for legislative  
18 or administrative action as the Secretary may deter-  
19 mine to be appropriate.

20 (2) PROTOTYPE.—Any recommendation on the  
21 feasibility of developing and implementing interfaces  
22 and templates for use in electronic communications  
23 shall be accompanied by prototypes of such inter-  
24 faces and templates that demonstrate such feasi-  
25 bility.

1 (d) DEFINITIONS.—For purposes of this section, the  
2 following definitions shall apply:

3 (1) INTERFACE.—The term “interface” means  
4 the point and method of interaction between any 2  
5 or more electronic data storage and communication  
6 systems that permits and facilitates active electronic  
7 communication between or among the systems, in-  
8 cluding any procedures, codes, and protocols that en-  
9 able the systems to interact.

10 (2) TEMPLATE.—The term “template” means a  
11 preestablished layout model using word processing or  
12 other authoring software that ensures that data en-  
13 tered into it will adhere to a consistent format and  
14 content scheme when used by all parties engaged in  
15 electronic communications among each other.

16 **SEC. 706. ANNUAL REPORT BY SECRETARY OF THE TREAS-**  
17 **URY.**

18 (a) FINDINGS.—The Congress finds as follows:

19 (1) Financial institutions have too little infor-  
20 mation about money laundering and terrorist financ-  
21 ing compliance in other markets.

22 (2) The current Financial Action Task Force  
23 designation system does not adequately represent  
24 the progress countries are making in combatting  
25 money laundering.

1           (3) Lack of information about the compliance  
2           of countries with anti-money laundering standards  
3           exposes United States financial markets to excessive  
4           risk.

5           (4) Failure to designate countries that fail to  
6           make progress in combatting terrorist financing and  
7           money laundering eliminates incentives for internal  
8           reform.

9           (5) The Secretary of the Treasury has an af-  
10          firmative duty to provide to financial institutions  
11          and examiners the best possible information on com-  
12          pliance with anti-money laundering and terrorist fi-  
13          nancing initiatives in other markets.

14          (b) REPORT.—Not later than March 1 of each year,  
15          the Secretary of the Treasury shall submit to the Congress  
16          a report that identifies the applicable standards of each  
17          country against money laundering and states whether that  
18          country is a country of primary money laundering concern  
19          under section 5318A of title 31, United States Code. The  
20          report shall include—

21                (1) information on the effectiveness of each  
22                country in meeting its standards against money  
23                laundering;

24                (2) a determination of whether that the efforts  
25                of that country to combat money laundering and ter-

1       rorist financing are adequate, improving, or inad-  
2       equate; and

3               (3) the efforts made by the Secretary to provide  
4       to the government of each such country of concern  
5       technical assistance to cease the activities that were  
6       the basis for the determination that the country was  
7       of primary money laundering concern.

8       (c) DISSEMINATION OF INFORMATION IN REPORT.—

9       The Secretary of the Treasury shall make available to the  
10      Federal Financial Institutions Examination Council for  
11      incorporation into the examination process, in consultation  
12      with Federal banking agencies, and to financial institu-  
13      tions the information contained in the report submitted  
14      under subsection (a). Such information shall be made  
15      available to financial institutions without cost.

16      (d) DEFINITION.—For purposes of this section, the  
17      term “financial institution” has the meaning given that  
18      term in section 5312(a)(2) of title 31, United States Code.

19      **SEC. 707. PRESERVATION OF MONEY SERVICES BUSI-**  
20                                      **NESSES.**

21      (a) FINDINGS.—The Congress finds as follows:

22               (1) Title III of the USA PATRIOT ACT pro-  
23      vided United States law enforcement agencies with  
24      new tools to combat terrorist financing and money  
25      laundering.

1           (2) The Financial Crimes Enforcement Net-  
2       work in the Department of the Treasury (hereafter  
3       in this section referred to as “FinCEN” ) has de-  
4       fined money services businesses to include the fol-  
5       lowing 5 distinct types of financial services providers  
6       as well as the United States Postal Service:

7                   (A) Currency dealers or exchanges.

8                   (B) Check cashing services.

9                   (C) Issuers of travelers’ checks, money or-  
10       ders, or stored value cards.

11                  (D) Sellers or redeemers of travelers’  
12       checks, money orders, or stored value cards.

13                  (E) Money transmitters.

14       (3) Money services businesses have had more  
15       difficulty in obtaining and maintaining banking serv-  
16       ices since the passage of the USA PATRIOT ACT.

17       (4) On March 30, 2005, FinCEN and the Fed-  
18       eral banking agencies (as defined in section 3 of the  
19       Federal Deposit Insurance Act) issued a joint state-  
20       ment recognizing the importance of ensuring that  
21       money services businesses that comply with the law  
22       have reasonable access to banking services.

23       (5) On April 26, 2005, FinCEN offered guid-  
24       ance to money service businesses on obtaining and  
25       maintaining banking services by identifying and ex-

1       plaining to money services businesses the types of  
2       information and documentation they are expected to  
3       have, and to provide to, depository institutions when  
4       conducting banking business.

5               (6) At the same time, FinCEN and the Federal  
6       banking agencies have issued joint guidance to de-  
7       pository institutions to—

8               (A) clarify the requirements of subchapter  
9       II of chapter 53 of title 31, United States Code,  
10       and related provisions of law; and

11              (B) set forth the minimum steps that de-  
12       pository institutions should take when providing  
13       banking services to money services businesses.

14              (7) It is in the interest of the United States  
15       and its allies in the wars against terrorism and  
16       drugs to make certain that the international transfer  
17       of funds is done in a rules-based, formal, and trans-  
18       parent manner and that individuals are not forced  
19       into utilizing informal underground methods due to  
20       a lack of services.

21       (b) SENSE OF THE CONGRESS.—It is the sense of  
22       the Congress that depository institutions and money serv-  
23       ices businesses should follow the guidance offered by  
24       FinCEN for the purpose of giving money services busi-  
25       nesses full access to banking services and ensuring that

1 money services businesses remain in the mainstream fi-  
 2 nancial system and can be full players in providing impor-  
 3 tant financial services to their customers and be fully co-  
 4 operative in the fight against terrorist financing and  
 5 money laundering.

## 6 **TITLE VIII—CLERICAL AND** 7 **TECHNICAL AMENDMENTS**

### 8 **SEC. 801. CLERICAL AMENDMENTS TO THE HOME OWNERS’** 9 **LOAN ACT.**

10 (a) AMENDMENT TO TABLE OF CONTENTS.—The  
 11 table of contents in section 1 of the Home Owners’ Loan  
 12 Act (12 U.S.C. 1461) is amended by striking the items  
 13 relating to sections 5 and 6 and inserting the following  
 14 new items:

“Sec. 5. Savings associations.

“Sec. 6. [Repealed.]”.

15 (b) CLERICAL AMENDMENTS TO HEADINGS.—

16 (1) The heading for section 4(a) of the Home  
 17 Owners’ Loan Act (12 U.S.C. 1463(a)) is amended  
 18 by striking “(a) FEDERAL SAVINGS ASSOCIA-  
 19 TIONS.—” and inserting “(a) GENERAL RESPON-  
 20 SIBILITIES OF THE DIRECTOR.—”.

21 (2) The section heading for section 5 of the  
 22 Home Owners’ Loan Act (12 U.S.C. 1464) is  
 23 amended to read as follows:



1   **“SEC. 5. SAVINGS ASSOCIATIONS.”.**

2   **SEC. 802. TECHNICAL CORRECTIONS TO THE FEDERAL**  
3                   **CREDIT UNION ACT.**

4           The Federal Credit Union Act (12 U.S.C. 1751 et  
5 seq.) is amended as follows:

6           (1) In section 101(3), strike “and” after the  
7           semicolon.

8           (2) In section 101(5), strike the terms “account  
9           account” and “account accounts” each place any  
10          such term appears and insert “account”.

11          (3) In section 107(a)(5)(E) (as so designated  
12          by section 303 of this Act), strike the period at the  
13          end and insert a semicolon.

14          (4) In paragraphs (6) and (7) of section 107(a)  
15          (as so designated by section 303 of this Act), strike  
16          the period at the end and insert a semicolon.

17          (5) In section 107(a)(7)(D) (as so designated  
18          by section 303 of this Act), strike “the Federal Sav-  
19          ings and Loan Insurance Corporation or”.

20          (6) In section 107(a)(7)(E) (as so designated  
21          by section 303 of this Act), strike “the Federal  
22          Home Loan Bank Board,” and insert “the Federal  
23          Housing Finance Board,”.

24          (7) In section 107(a)(9) (as so designated by  
25          section 303 of this Act), strike “subchapter III” and  
26          insert “title III”.

1           (8) In section 107(a)(13) (as so designated by  
2           section 303 of this Act), strike the “and” after the  
3           semicolon at the end.

4           (9) In section 109(c)(2)(A)(i), strike “(12  
5           U.S.C. 4703(16))”.

6           (10) In section 120(h), strike “the Act ap-  
7           proved July 30, 1947 (6 U.S.C., secs. 6–13),” and  
8           insert “chapter 93 of title 31, United States Code,”.

9           (11) In section 201(b)(5), strike “section 116  
10          of”.

11          (12) In section 202(h)(3), strike “section  
12          207(c)(1)” and insert “section 207(k)(1)”.

13          (13) In section 204(b), strike “such others pow-  
14          ers” and insert “such other powers”.

15          (14) In section 206(e)(3)(D), strike “and” after  
16          the semicolon at the end.

17          (15) In section 206(f)(1), strike “subsection  
18          (e)(3)(B)” and insert “subsection (e)(3)”.

19          (16) In section 206(g)(7)(D), strike “and sub-  
20          section (1)”.

21          (17) In section 206(t)(2)(B), insert “regula-  
22          tions” after “as defined in”.

23          (18) In section 206(t)(2)(C), strike “material  
24          affect” and insert “material effect”.

1           (19) In section 206(t)(4)(A)(ii)(II), strike “or”  
2       after the semicolon at the end.

3           (20) In section 206A(a)(2)(A), strike “regulator  
4       agency” and insert “regulatory agency”.

5           (21) In section 207(c)(5)(B)(i)(I), insert “and”  
6       after the semicolon at the end.

7           (22) In the heading for subparagraph (A) of  
8       section 207(d)(3), strike “TO” and insert “WITH”.

9           (23) In section 207(f)(3)(A), strike “category  
10      or claimants” and insert “category of claimants”.

11          (24) In section 209(a)(8), strike the period at  
12      the end and insert a semicolon.

13          (25) In section 216(n), insert “any action” be-  
14      fore “that is required”.

15          (26) In section 304(b)(3), strike “the affairs or  
16      such credit union” and insert “the affairs of such  
17      credit union”.

18          (27) In section 310, strike “section 102(e)” and  
19      insert “section 102(d)”.

20   **SEC. 803. OTHER TECHNICAL CORRECTIONS.**

21      (a) Section 1306 of title 18, United States Code, is  
22      amended by striking “5136A” and inserting “5136B”.

23      (b) Section 5239 of the Revised Statutes of the  
24      United States (12 U.S.C. 93) is amended by redesignating  
25      the second of the 2 subsections designated as subsection

1 (d) (as added by section 331(b)(3) of the Riegle Commu-  
 2 nity Development and Regulatory Improvement Act of  
 3 1994) as subsection (e).

4 **SEC. 804. REPEAL OF OBSOLETE PROVISIONS OF THE BANK**  
 5 **HOLDING COMPANY ACT OF 1956.**

6 (a) IN GENERAL.—Section 2 of the Bank Holding  
 7 Company Act of 1956 (12 U.S.C. 1841) is amended—

8 (1) in subsection (c)(2), by striking subpara-  
 9 graphs (I) and (J); and

10 (2) by striking subsection (m) and inserting the  
 11 following new subsection:

12 “(m) [Repealed]”.

13 (b) TECHNICAL AND CONFORMING AMENDMENTS.—  
 14 Paragraphs (1) and (2) of section 4(h) of the Bank Hold-  
 15 ing Company Act of 1956 (12 U.S.C. 1843(h)) are each  
 16 amended by striking “(G), (H), (I), or (J) of section  
 17 2(c)(2)” and inserting “(G), or (H) of section 2(c)(2)”.

18 **TITLE IX—FAIR DEBT COLLEC-**  
 19 **TION PRACTICES ACT AMEND-**  
 20 **MENTS**

21 **SEC. 901. EXCEPTION FOR CERTAIN BAD CHECK ENFORCE-**  
 22 **MENT PROGRAMS.**

23 (a) IN GENERAL.—The Fair Debt Collection Prac-  
 24 tices Act (15 U.S.C. 1692 et seq.) is amended—

1 (1) by redesignating section 818 as section 819;

2 and

3 (2) by inserting after section 817 the following

4 new section:

5 **“§ 818. Exception for certain bad check enforcement**  
6 **programs operated by private entities**

7 “(a) IN GENERAL.—If—

8 “(1) a State or district attorney establishes,  
9 within the jurisdiction of such State or district attor-  
10 ney and with respect to alleged bad check violations  
11 that do not involve a check described in subsection  
12 (c), a pretrial diversion program for alleged bad  
13 check offenders who agree to participate voluntarily  
14 in such program to avoid criminal prosecution and  
15 are not described in subsection (b);

16 “(2) a private entity, that is subject to an ad-  
17 ministrative support services contract with a State  
18 or district attorney and operates under the direction,  
19 supervision and control of such State or district at-  
20 torney, operates the pretrial diversion program de-  
21 scribed in paragraph (1); and

22 “(3) in the course of performing duties dele-  
23 gated to it by a State or district attorney under the  
24 contract, the private entity referred to in paragraph  
25 (2)—

1           “(A) complies with the penal laws of the  
2           State;

3           “(B) conforms with the terms of the con-  
4           tract and directives of the State or district at-  
5           torney;

6           “(C) does not exercise independent pros-  
7           ecutorial discretion;

8           “(D) contacts any alleged offender referred  
9           to in paragraph (1) for purposes of partici-  
10          pating in a program referred to in such para-  
11          graph only—

12           “(i) as a result of any determination  
13           by the State or district attorney that suffi-  
14           cient evidence of a bad check violation  
15           under State law exists and that contact  
16           with the alleged offender for purposes of  
17           participation in the program is appro-  
18           priate; or

19           “(ii) as otherwise permitted in re-  
20           sponse to evidence of a bad check;

21           “(E) includes as part of an initial written  
22           communication with an alleged offender a clear  
23           and conspicuous statement that—

24           “(i) the alleged offender may dispute  
25           the validity of any alleged bad check viola-

1           tion through a procedure established and  
2           supervised by the State or district attor-  
3           ney, together with an explanation of how  
4           such a dispute may be initiated; and

5           “(ii) where the alleged offender  
6           knows, or has reasonable cause to believe,  
7           that the alleged bad check violation is the  
8           result of theft or forgery of the check,  
9           identity theft, or other fraud that is not  
10          the result of the alleged offender’s conduct,  
11          the alleged offender may file a crime report  
12          with the appropriate law enforcement  
13          agency and have further contacts or res-  
14          titution efforts suspended until the ques-  
15          tion of the theft or forgery of the check,  
16          identity theft, or other fraud has been re-  
17          solved, together with clear instructions on  
18          how to file such crime report; and

19          “(F) charges only fees in connection with  
20          services under the contract that—

21               “(i) have been authorized by the con-  
22               tract with the State or district attorney;  
23               and

24               “(ii) conform with the schedule of rea-  
25               sonable charges for such services which

1 shall be established by the National Dis-  
2 trict Attorney's Association, after consulta-  
3 tion with the Commission and representa-  
4 tives of interested business and consumer  
5 organizations,

6 the private entity shall be treated as an officer of the State  
7 and excluded from the definition of debt collector, pursu-  
8 ant to the exception provided in section 803(6)(C), with  
9 respect to the entity's operation of the program described  
10 in paragraph (1) under the contract described in para-  
11 graph (2).

12 “(b) CERTAIN OFFENDERS EXCLUDED.—An alleged  
13 bad check offender is described in this subsection if a pri-  
14 vate entity described in subsection (a)(2) can determine  
15 from available records that such offender—

16 “(1) was convicted of a bad check offense in the  
17 3 years prior to issuing the bad check under consid-  
18 eration; or

19 “(2) participated in a pretrial diversion pro-  
20 gram in the 18 months prior to issuing the bad  
21 check under consideration.

22 “(c) CERTAIN CHECKS EXCLUDED.—A check is de-  
23 scribed in this subsection if the check involves, or is subse-  
24 quently found to involve—



1           “(1) a postdated check presented in connection  
2           with a payday loan, or other similar transaction,  
3           where the holder of the check knew that the issuer  
4           had insufficient funds at the time the check was  
5           made, drawn or delivered;

6           “(2) a stop payment order where the issuer  
7           acted in good faith and with reasonable cause in  
8           stopping payment on the check;

9           “(3) a check dishonored because of an adjust-  
10          ment to the issuer’s account by the financial institu-  
11          tion holding such account without providing notice  
12          to the person at the time the check was made,  
13          drawn or delivered;

14          “(4) a check for partial payment of a debt  
15          where the holder had previously accepted partial  
16          payment for such debt;

17          “(5) a check issued by a person who was not  
18          competent, or was not of legal age, to enter into a  
19          legal contractual obligation at the time the check  
20          was made, drawn or delivered; or

21          “(6) a check issued to pay an obligation arising  
22          from a transaction that was illegal in the jurisdiction  
23          of the State or district attorney at the time the  
24          check was made, drawn or delivered.

1       “(d) DEFINITIONS.—For purposes of this section, the  
2 following definitions shall apply:

3           “(1) STATE OR DISTRICT ATTORNEY.—The  
4 term ‘State or district attorney’ means the chief  
5 elected or appointed prosecuting attorney in a dis-  
6 trict, county (as defined in section 2 of title 1,  
7 United States Code), municipality, or comparable ju-  
8 risdiction, including State attorneys general who act  
9 as chief elected or appointed prosecuting attorneys  
10 in a district, county (as so defined), municipality or  
11 comparable jurisdiction, who may be referred to by  
12 a variety of titles such as district attorneys, pros-  
13 ecuting attorneys, commonwealth’s attorneys, solici-  
14 tors, county attorneys, and state’s attorneys, and  
15 who are responsible for the prosecution of State  
16 crimes and violations of jurisdiction-specific local or-  
17 dinances.

18           “(2) CHECK.—The term ‘check’ has the same  
19 meaning as in section 3(6) of the Check Clearing for  
20 the 21st Century Act.

21           “(3) BAD CHECK.—The term ‘bad check’ means  
22 any check that—

23               “(A) the issuer knew, or should have  
24 known, would not be paid upon presentment be-  
25 cause the issuer—

1 “(i) had no account with the drawee  
2 financial institution at the time the check  
3 was made, drawn, or delivered;

4 “(ii) had closed the account upon with  
5 the check was made or drawn prior to the  
6 time the check was made, drawn, or delivered; or  
7

8 “(iii) used a false or altered check, or  
9 false or altered check account number; or

10 “(B) was refused payment by the financial  
11 institution or other drawee for lack of sufficient  
12 funds and the issuer failed to pay the full  
13 amount of the check, together with reasonable  
14 costs as permitted by State law—

15 “(i) after receiving written notice  
16 from the holder of the check that payment  
17 was refused by the drawee financial institution to the extent that the timing and  
18 mode of delivery of such written notice is  
19 in compliance with the applicable State law  
20 for determining criminal liability for bad  
21 check offenses; or  
22

23 “(ii) in a case in which there are no  
24 applicable State law requirements as described in clause (i), within 30 days of re-  
25

1           ceiving written notice, mailed to the issuer  
2           by certified mail to the address printed on  
3           the check, or given at the time the check  
4           was made, drawn or delivered or, other-  
5           wise, at the address where the alleged of-  
6           fender resides or is found, from the holder  
7           of the check that payment of 1 or more  
8           checks was refused by the drawee financial  
9           institution.”.

10       (b) CLERICAL AMENDMENT.—The table of sections  
11 for the Fair Debt Collection Practices Act is amended—

12           (1) by redesignating the item relating to section  
13       818 as section 819; and

14           (2) by inserting after the item relating to sec-  
15       tion 817 the following new item:

“818. Exception for certain bad check enforcement programs operated by pri-  
vate entities.”.

16   **SEC. 902. OTHER AMENDMENTS.**

17       (a) LEGAL PLEADINGS.—Section 809 of the Fair  
18 Debt Collection Practices Act (15 U.S.C. 1692g) is  
19 amended by adding at the end the following new sub-  
20 section:

21       “(d) LEGAL PLEADINGS.—A communication in the  
22 form of a formal pleading in a civil action shall not be  
23 treated as an initial communication for purposes of sub-  
24 section (a).”.

1       (b) NOTICE PROVISIONS.—Section 809 of the Fair  
2 Debt Collection Practices Act (15 U.S.C. 1692g) is  
3 amended by adding after subsection (d) (as added by sub-  
4 section (a) of this section) the following new subsection:

5       “(e) NOTICE PROVISIONS.—The sending or delivery  
6 of any form or notice which does not request the payment  
7 of a debt and is expressly required by any other Federal  
8 or State law or regulation, including the Internal Revenue  
9 Code of 1986, title V of Gramm-Leach-Bliley Act, and any  
10 data security breach notice and privacy law shall not be  
11 treated as a communication in connection with debt collec-  
12 tion. ”.

13       (c) ESTABLISHMENT OF RIGHT TO COLLECT WITHIN  
14 THE FIRST 30 DAYS.—Section 809(b) of the Fair Debt  
15 Collection Practices Act (15 U.S.C. 1692g(b)) is amended  
16 by striking “If the consumer” and inserting “Collection  
17 activities and communications may continue during any  
18 30-day period referred to in subsection (a). However, if  
19 the consumer”.

Passed the House of Representatives March 8,  
2006.

Attest:

*Clerk.*